

CALIFORNIA STATE PARKS
OFF-HIGHWAY MOTOR VEHICLE RECREATION COMMISSION
SPECIAL MEETING
TRANSCRIPT - UNAPPROVED

May 3, 2013

Start time at 10:01 a.m.

Holiday Inn
1350 North First Street
San Jose, CA 95112

IN ATTENDANCE:

OHMVR COMMISSIONERS PRESENT:

Paul Slavik, Chair	Breene Kerr, Vice Chair
Ted Cabral	Kevin Murphy
Edward Patrovsky	
M. Teresa Villegas	

COMMISSIONER NOT PRESENT:

Diana Perez

OHMVR DIVISION STAFF:

Christopher Conlin, Deputy Director
Phil Jenkins, Chief
Maria Mowrey, Administrative Chief
Kathryn Tobias, Legal Counsel

OTHER OHMVR STAFF AND REGISTERED VISITORS

1 **AGENDA ITEM I - CALL TO ORDER at 10:01 a.m.**

2 **AGENDA ITEM I(A) - PLEDGE OF ALLEGIANCE**

3 Commissioner Cabral led the meeting attendees in the
4 Pledge of Allegiance.

5 **AGENDA ITEM I(B) - ROLL CALL**

6 Six Commission Members present. Commissioner Perez was
7 not present.

8 CHAIR SLAVIK: I'd like to start off the meeting
9 with an exciting opportunity to introduce our new
10 Deputy Director. Phil Jenkins, who had been filling
11 two posts for a long time and practically wore himself
12 out, would you do us the honor, please?

13 CHIEF JENKINS: Thank you, Chair. Yes, it's my
14 honor to introduce Chris Conlin this morning. Chris
15 has been here now three weeks. As everybody knows,
16 quite a void to fill after Deputy Director Greene left,
17 and that was a more than a year period there. And I
18 want to thank Acting Chief for the last year, Maria
19 Mowrey, for really stepping up to the plate and making
20 it possible for us to really survive that year.

21 I'm going to let Chris speak for himself, but
22 these last three weeks has been such a huge relief to
23 know that we have a deputy director that understands
24 the full range of issues from all sides and has
25 relevant experience. You might think that coming in

1 out of a military background, how could that be. Trust
2 me, it is. He has driven vehicles in all sorts of
3 environments and dealt with environmental issues
4 relating to bases, so he has seen kind of that full
5 spectrum of stuff that we deal with. We are extremely
6 fortunate to have Chris Conlin as our Deputy Director.

7 So, Chris, I don't know if you want to say a few
8 words for yourself.

9 DEP. DIRECTOR CONLIN: Too much flattery, thank
10 you very much. It's an honor and privilege to be here
11 and serve the great State of California, to serve in
12 the Department of Parks and Recreation, and to serve
13 the California recreational and environmental concerns
14 that are associated with this program. So thank you
15 for letting me be here. Thank you for giving me this
16 opportunity. I look forward to working with everybody
17 here.

18 CHAIR SLAVIK: And speaking for the Commission,
19 I'd like to welcome you, as well.

20 I had a chance to visit with Chris a little more
21 than a week ago at Ocotillo Wells. We spent a couple
22 of days down there and got to know each other a little
23 bit, so we're off and running.

24 **AGENDA ITEM III - BUSINESS ITEM**

25 CHAIR SLAVIK: So to start off the agenda, to

1 start off the discussion on the proposed Clear Creek
2 Management Plan, I would like to introduce Jane Arteaga
3 with the BLM and some of the people that she's brought
4 along with her to kind of give us the parameters of
5 where we can get started on this. This is kind of a
6 special situation that we're in right now. It's the
7 very end of a long period of planning.

8 So, Jane, can you give us a little update on
9 what we can and cannot do?

10 BLM JANE ARTEAGA: Good morning, thank you for
11 inviting us to come to this Commission meeting. I
12 really appreciate that. Again, I'm Jane Arteaga. I'm
13 the OHV coordinator for Bureau of Land Management
14 throughout California. I have with me Cecilia Fell.
15 She's is the district manager for Central California;
16 and also Liz Meyer-Shields, she's the NEPA specialist
17 at the State Office in California.

18 Pretty much we're here in support of Dan. If
19 there's any questions on the NEPA process or the
20 protest process, we're willing to answer those
21 questions. We cannot discuss the plan at this point.
22 The protest process is now at the D.C. level, and so
23 anything relevant to the plan we cannot discuss.

24 So if Dan needs assistance in answering a NEPA
25 question or a protest question, we can address that.

1 Thank you.

2 CHAIR SLAVIK: Thank you.

3 Having said that, the Commission and the
4 audience during the public comment period -- we have an
5 open discussion here. There should be no limit to the
6 discussion we can have internally. You just can't end
7 up on the letter that if, in fact, we do vote on the
8 letter that will go to Washington, D.C. to protest this
9 final decision.

10 So, Dan, are you ready?

11 OHMVR STAFF CANFIELD: Good morning,
12 Commissioners, Dan Canfield, OHMVR Division presenting
13 a report on the BLM Clear Creek Management Area
14 Proposed Resource Management Plan and Final
15 Environmental Impact Statement. A staff report was
16 provided to the Commissioners and also to the public on
17 the back table.

18 I'm going to use a few abbreviations to help
19 speed things along. For Clear Creek Management Area,
20 I'll use CCMA. For the Proposed Resource Management
21 Plan and Final Environmental Impact Statement, I'll
22 just refer to it as the RMP or the plan. And also
23 another term is the ACEC, which stands for the area of
24 critical environmental concerns. I'll mention that in
25 my report, also.

1 The CCMA proposed RMP was published by the BLM
2 on April 5th, 2013. The proposed RMP eliminated OHV
3 recreation from the 30,000-acre serpentine ACEC, which
4 I'll discuss a little bit more in a moment. The
5 Federal Regulations provide a 30-day protest period in
6 which individuals or organizations that participated in
7 the planning process have the opportunity to protest
8 the planning decision, and that's kind of why we're
9 here today.

10 During the planning process for the CCMA RMP,
11 the Commission, through the Chair, had submitted a
12 letter. This was back in June of 2011. This letter is
13 Attachment No. 1 to your staff report. This letter
14 went to members of the United States House of
15 Representatives, and it was copied to the BLM and a lot
16 of other folks. And the BLM sent a response letter
17 back to the Commission from that letter. So that
18 correspondence constitutes the Division's participation
19 in the planning process, hence the Commission has the
20 opportunity to discuss and decide whether or not they
21 wish to protest the planning decision.

22 I'd like to provide a little background on the
23 topic first, discuss some current events, and then
24 discuss in more detail the protest process and what's
25 required, and then I'll turn it over to my associate,

1 Will Harris, for discussion of some of the unique
2 geological features of the Clear Creek area.

3 First the background, the CCMA is a popular OHV
4 recreation area in the Diablo Mountains of Central
5 California. It's approximately 40 miles south of our
6 Hollister Hills State Vehicle Recreation Area for a
7 point of reference. The CCMA is approximately 75,000
8 acres and is located in San Benito and Fresno Counties.
9 Back in 1984, the BLM designated a portion of the CCMA,
10 approximately 30,000 acres were designated as the
11 serpentine ACEC, or area of critical environmental
12 concern. Most of the CCMA OHV opportunities exist
13 within the serpentine ACEC, especially the technical
14 single-track motorcycle trails that exist in this
15 serpentine ACEC.

16 In 2008, the Environmental Protection Agency, or
17 EPA for another abbreviation, released a study of
18 asbestos-related risks associated recreating in the
19 serpentine ACEC. This EPA study did identify some
20 concerns associated with this activity. In response to
21 this study the BLM issued a temporary closure of the
22 CCMA. Again, this was back in 2008. And at that point
23 the BLM, they did the temporary closure, and they
24 started the RMP process that we're talking about today.

25 In 2009, the BLM published the draft RMP, or

1 plan for Clear Creek. In response, in 2010, the OHMVR
2 Division commissioned an independent study to examine
3 the OHV specific related risks associated with the
4 naturally occurring asbestos that exists in the
5 serpentine ACEC. This was a study to determine if
6 management options were available that could allow
7 continued OHV recreation while mitigating the health
8 risks.

9 In 2011, this independent study was released.
10 It's referred to as the IERF study, which a copy of was
11 provided to the Commissioners and also to the public on
12 the back table.

13 The June 2011 Commission letter I mentioned a
14 moment ago, which is Attachment 1 to your staff report,
15 discussed the findings in the IERF study and encouraged
16 the BLM to adopt management options in the RMP process
17 that would allow OHV recreation to return to the
18 serpentine ACEC portion of Clear Creek.

19 That brings us up to the current 2013,
20 specifically April of 2013, when the BLM released their
21 proposed RMP. Up on the map on the projector is a map
22 of the Clear Creek Management Area, and the orange area
23 in the middle is the serpentine ACEC portion which has
24 a red line around it. This proposed action map is part
25 of the RMP and identifies routes and available vehicles

1 that would be able to utilize the routes.

2 And I don't know if you can tell from the map
3 from the plan in the serpentine ACEC the routes would
4 not be available for OHV recreation but rather
5 motorcycle touring by highway-licensed vehicles by
6 permit limited to a certain number of days a year. So
7 that's the current proposed RMP released in April.

8 Now, I mentioned a current event which I'm going
9 to speak to. Last week, on April 26th, members of the
10 United States House of Representatives introduced a
11 Federal Bill, HR 1776. This bill is referred to as the
12 Clear Creek Natural Rec Area and Conservation Act.
13 Now, a handout of the text of that bill was available
14 on the back table. It's just been recently published,
15 but we did print out some copies to make sure we get
16 that to the Commissioners. If you haven't seen that,
17 it's also on the back table.

18 This proposed legislation directs the BLM to
19 reopen the CCMA to recreation and also to develop a
20 plan that would allow OHV recreation in the serpentine
21 ACEC while mitigating health risks associated with
22 naturally-occurring asbestos.

23 The proposed federal legislation also
24 establishes a 21,000-acre BLM wilderness that would be
25 called the Joaquin Rocks Wilderness, and also

1 designates five river and creek segments as wild and
2 scenic rivers. So it's a balanced piece of
3 legislation. So that's a very exciting development,
4 and we will be tracking that very closely as that
5 legislation moves through the process.

6 So I've talked a little bit about the background
7 behind Clear Creek and the RMP; talked a little bit
8 about the current events. I would now like to speak to
9 the protest process that we talked about earlier. And
10 thank you, Jane, for introducing it.

11 As I discussed earlier, the Federal Regulations
12 allow a 30-day protest period for an RMP. Now, these
13 Federal Regulations provide directions to parties
14 interested in protesting the planning decision. I'm
15 going to talk about some of the required elements of a
16 protest in hopes that it will allow for meaningful
17 conversation and public input.

18 One required element of a protest, the
19 protesting party is required to identify how they would
20 be adversely affected by the approval of the plan.
21 That's one required element. The protest must include
22 a statement of the issues being protested. Now, these
23 must be issues that were identified earlier on in the
24 planning process. You can't introduce a new issue at
25 this point. It must have been an issue that had been

1 brought up earlier in the planning process.

2 The protesting party must include a statement of
3 the part of the plan being protested, where that may be
4 a section number, a page number, or a map. So you need
5 to identify what part of the plan you're protesting
6 specifically or the protested part.

7 The protest needs to include a copy of the
8 documents addressing the issue. In the case of the
9 Commission that would be that June 2011 letter from the
10 Commission which is Attachment 1 to your staff report.

11 And then finally perhaps, most important, a
12 valid protest must contain a concise statement
13 explaining why the State Director's decision is
14 believed to be wrong, and that's the planning decision.

15 Now, in your staff report, there are two
16 possible protest points that are identified. These are
17 very high level by design. The idea was for them to be
18 a starting point for discussion amongst the Commission
19 and once receiving public comment on the topic could
20 help the Commission decide whether or not they wish to
21 file a protest and then what would that protest look
22 like. So that's a very high level, but I think for
23 this process we could work to focus those in a little
24 bit if the Commission is desirable.

25 That was the end of my report, and I believe I'm

1 going to turn it over to Will Harris, California
2 Geological Survey, on the presentation on some of
3 unique geological features of the impacted area.

4 COMMISSIONER KERR: Dan, excuse me, on the
5 motorized touring by permit, so I had a question about
6 that and also about the protest process. So I thought
7 that that was a county road that was open, you know, to
8 vehicular traffic. So can you explain further the
9 proposed permit process? When you say five days a
10 year, are there five designated days a year when cars
11 can go through there? Or can you apply for up to five
12 different permitted days for you to go through there as
13 an individual?

14 OHMVR STAFF CANFIELD: I believe the permit
15 would be to stopping along the way and hiking or
16 collecting rocks and gems, so the conveyance across the
17 county roads I believe would not be a part of the
18 five-day limitation or the permit process. It's if you
19 want to stop, picnic hike, collect rocks and gems or
20 other non-motorized recreation.

21 COMMISSIONER KERR: And then with regards to the
22 protest, we did have extensive public hearings
23 regarding this, including a publicly-noticed tour. We
24 have substantial minutes of our meeting in Hollister.
25 Are those items that were discussed and duly recorded

1 in the minutes a possible subject for a protest to the
2 BLM plan?

3 OHMVR STAFF CANFIELD: The federal regulation
4 language is something along the lines of to be able to
5 be eligible to file a protest, you must have
6 participated in the planning process.

7 COMMISSIONER KERR: Which we did by writing a
8 letter.

9 OHMVR STAFF CANFIELD: That was my read on it.
10 It doesn't have further description. And so at some
11 point it becomes a matter of interpretation at that
12 point. From your discussion, that could potentially be
13 considered part of the planning process, the meeting
14 minutes. But the regulations aren't as black and white
15 as to whether or not yes or no.

16 CGS GEOLOGIST HARRIS: Good morning, again,
17 Will Harris, from the California Geological Survey.

18 While you're digesting some of the details on
19 the Resource Management Plan and some options for
20 protest, I wanted to talk geology because the reason
21 you're here is because of the geology of the area.

22 So first I'd like to give you a primer as to
23 why CCMA itself exists. To do this first -- and,
24 again, just to highlight here, Hollister is here,
25 about a 60-mile drive to CCMA here, and I'll talk about

1 this outcrop and why it's unique. There is Monterey
2 Bay here.

3 The reason we're here is because of going back,
4 this is -- I'm going to give you a bit of a geology
5 primer. The reason we're here is because to talk
6 about CCMA, we have to first go to the floor of the
7 ocean and look at the rocks that comprise the oceanic
8 crust. These rocks are called ultramafic rocks, and
9 that's rich in magnesia and iron. The chemistry of
10 ultramafic rocks are representative of the chemistry of
11 the molten rock that is found in the magma of the earth
12 that is just beneath the crust of the earth surface.
13 That makes sense because the oceanic crust is comprised
14 of the magma from the earth surface and comes up
15 through spreading ridges on the sea floor, and then
16 it's pushed aside by still newer crust that extrudes
17 from spreading ridges.

18 When oceanic crust forms, it's pushed away by
19 the still newer crust, and that newer crust eventually
20 is pushed into another tectonic plate. If that
21 tectonic plate is a continental plate, the oceanic
22 crust is going to subduct beneath that plate, meaning
23 it's going to slide underneath the overriding plate.

24 Here in California, the San Andreas Fault marks
25 the margin between the Pacific oceanic plate on the

1 west and the North American continental plate on the
2 east. Today that is known as the strike slip fault or
3 transform margin, where one plate slides alongside the
4 other plate.

5 But 30-million years ago, that boundary actually
6 existed as a series of subduction zones. Subduction is
7 a process that is not necessarily a clean shave.
8 That's hence the guy here. The reason I mention that
9 and mention the ultramafic rocks of the oceanic plate
10 is that as one plate is sliding beneath another, some
11 of that material from the subducting plate gets hung up
12 like so much stubble in a razor.

13 In California, that ultramafic stubble remains,
14 and its distribution marks the series of subduction
15 zones that existed more than 30-million years ago and
16 going back tens of million years ago from that in
17 California. So this boundary here in the foothills of
18 Sierra Nevada and then in the coast ranges mark
19 different episodes of subduction that occurred in the
20 past along the west coast of the North American
21 continental plate.

22 In a subduction zone, those ultramafic rocks I
23 mentioned, the magnesias and iron-rich rocks, they are
24 subjected to heat and pressure and hydrothermal fluids
25 so they become altered. So as a result of that, some

1 of that rock then turns into serpentinite.

2 But from here -- this is an important point I
3 think for you, Commissioners, to know about -- I have
4 to digress for the sake of serpentinite semantics and
5 health considerations, and this alludes to what Dan was
6 mentioning earlier.

7 To start, I want to talk about serpentinite,
8 serpentine, and asbestos. First, serpentinite and
9 serpentine. Serpentine is the California State Rock.
10 It is composed mostly, almost 90 percent or more, of
11 the serpentine group of minerals. Those minerals are
12 rich in magnesia, iron because they come from the
13 ultramafic rock, also rich in silicate and hydrogen and
14 oxygen. They are known as magnesium iron silicate
15 hydroxides. You do not need to worry about that.

16 But what you should remember is that those
17 minerals are all put together a little bit differently.
18 The atoms of those minerals are put together a little
19 bit differently so they are varied. You have 20
20 different types. And most of those varieties of the
21 serpentine group, they are in layers. They form as
22 layers, think of flakes of mica or clay as they form in
23 thin layers.

24 But one of those minerals in the serpentine
25 group forms first as a layer but then as a roll, like

1 you would roll a poster or a piece of paper. That is
2 chrysotile. That, when you look microscopically, is a
3 rolled layer, but when you look at it from the eye, it
4 looks like a fiber. That fiber has a generic term
5 called asbestos or asbestiform.

6 The takeaway on this part is that it's important
7 to know that you could have serpentinite -- you have
8 serpentinite, the state rock in California, and
9 geologically it's a wonderful representation of
10 California to my mind, but it does not necessarily mean
11 that serpentinite contains the mineral chrysotile, so
12 it does not necessarily mean that serpentinite contains
13 asbestos.

14 Now, another point that's important for you to
15 know is that some asbestos, because this term will come
16 up, sometimes associated with serpentinite is the
17 mineral amphibole. That too can form in fibers.
18 Amphibole usually is found -- if it is found, it's
19 found along the margins of a larger serpentinite body.
20 Amphibole can be found in fibrous form. And if it is,
21 that too would be called asbestos.

22 In terms of industrial regulations or in terms
23 of regulatory matters for asbestos, there are six
24 mineral types that are regulated for asbestos. Five of
25 those minerals are amphibole. One of those is from the

1 serpentine group; that's chrysotile.

2 The inhalation toxicity of those six minerals
3 varies. At the low end is chrysotile. The reason it's
4 at the low end is because comparatively it is a rolled
5 layer that breaks apart relatively easily. The fiber
6 is shorter. The amphibole asbestos is a rod. It is
7 not a layer. It forms more like a rod or a needle so
8 it's more durable. But the rolled layer is
9 comparatively shorter to the amphibole fibers and is
10 more fragile because it is rolled rather than just one
11 more durable rod, and in that case it is less durable
12 within the human body.

13 But in terms of approved health-based risk
14 assessments, one amphibole -- one asbestos type is the
15 same as another. So though you might have amphibole on
16 the extreme end, chrysotile on the lower end, it's all
17 together, just for your edification.

18 Now, bringing us to back to CCMA, the reason
19 CCMA exists is because of the serpentinite, the
20 ultramafic rock that was altered to serpentinite. When
21 it is altered, that rock, the serpentinite, becomes
22 less dense than the surrounding rock, and as a result
23 it pushes up through the surrounding rock. And you can
24 see both in the previous slide and this slide that CCMA
25 provides a great example of this. The total acreage of

1 CCMA that is a serpentinite is about 31,000 acres of
2 the overall 73,000 acres of CCMA. It pushed up through
3 the overlying sedimentary rock and then was exposed by
4 weathering.

5 What makes CCMA serpentinite unique is its size
6 and its mineralogy. For instance, benitoite -- not
7 only do we have the state rock, but we also have the
8 state gem, benitoite, found in the CCMA. And benitoite
9 is unique to this location, so rock hounders have been
10 coming here for decades looking for a piece of
11 benitoite because it's the only place that's found in
12 the world.

13 COMMISSIONER MURPHY: What is the
14 characteristics of that?

15 CGS GEOLOGIST HARRIS: It's a pale blue rock
16 kind of like a pale sapphire, and, unfortunately, I've
17 never seen one in person, but I'd love to, and it's
18 considered a semiprecious stone.

19 The other thing that makes CCMA unique and the
20 serpentinite at CCMA unique is that it does contain
21 asbestos, chrysotile asbestos within the serpentinite
22 rock, particularly in the eastern third of CCMA. And
23 when asbestos was used in industrial applications,
24 there was mining that occurred in this location.

25 What happened back in 1991, one of those mines

1 had been declared -- previous to 1991, the Atlas Mine
2 had been declared a SuperFund. In 1991, EPA began to
3 investigate and look at remediation options for this
4 Atlas Mine site. Stemming from that, in 2004 that's
5 when EPA then initiated their health-based risk
6 assessment for recreational activities at CCMA,
7 including OHV recreation. And that report was
8 finalized in May of 2008, and Dan gave you the details
9 of that. And then coupled with that, when that was
10 released, BLM issued their temporary closure of CCMA.

11 An important point for you guys to consider as
12 well, though, is in the interim, between 2004 and 2008,
13 and I think this is based on preliminary information
14 from the EPA report, BLM changed management of CCMA
15 from open year round to a seasonal management where
16 they closed it in the hot dry summer months. And I
17 believe that started around 2006 until the temporary
18 closure of May 2008.

19 And that's it, so thank you. Any questions
20 regarding the geology, if you have questions, between
21 me and Dan and probably Phil, we can field some of the
22 investigation information as best we can.

23 CHAIR SLAVIK: So this is probably the time that
24 we can open this up for discussion with the
25 Commissioners. Anybody want to go first?

1 COMMISSIONER MURPHY: Can you give me just in
2 general layman's terms, what is in your opinion the
3 hazard of the soil at the CCMA to casual riders of
4 motorcycles? In your opinion, what is that hazard?

5 CGS GEOLOGIST HARRIS: There is chrysotile
6 asbestos, chrysotile fibers in the soils of CCMA. The
7 EPA report, their assessment demonstrated that that was
8 an inhalation health hazard in their study.

9 The purpose of the work that was done by Robert
10 Nolan and the International Environmental Research
11 Foundation was to demonstrate whether or not there were
12 days where recreation could be done so that it was done
13 safely and did not impair health with regard to risks
14 associated with asbestos inhalation. And he did indeed
15 demonstrate that there were two days -- of the two days
16 he went out there, there were days that it was safe for
17 exposure level.

18 And one of the things that we talked about as a
19 potential investigation, and likely we can get into
20 more detail with regard to what BLM has presented in
21 their Resource Management Plan, right now we could
22 provide investigations for -- I don't want to get ahead
23 of myself, but the opportunity I think has been
24 presented, based on the initial work by IERF, that it's
25 worth investigating for other days when it's not hot

1 and dry to see if it would also be safe at those times,
2 as well. And then it's a risk assessment calculation
3 exercise, and I'm not a risk assessor.

4 COMMISSIONER MURPHY: So what you're saying is
5 items like capping the road, maybe some trail rerouting
6 as far as single-track trails, and maybe trails that go
7 across the hillside, maybe not as many up and down,
8 those kind of measures would make exposure to the
9 asbestos minimized; would you say that?

10 CGS GEOLOGIST HARRIS: It would lessen it for
11 sure. There are definitely ways that -- EPA did a
12 broad study. The BLM made some choices based on that
13 broad study. The OHMVR Division provided a more
14 focused investigation to look specifically at OHV
15 recreation. I think that information could be looked
16 at to provide a more nuanced approach, possibly, to OHV
17 recreation.

18 COMMISSIONER KERR: So getting back to geology,
19 you mentioned the different types of asbestos. So
20 asbestos has become kind of a catchall phrase for these
21 long fibrous particles, but you made a distinction
22 between the various types of asbestos. And it's my
23 understanding from your discussion that we're pretty
24 much exclusively dealing with chrysotile at this
25 particular 75,000-acre site. Are we dealing with any

1 other kinds of asbestos or is this all this one?

2 CGS GEOLOGIST HARRIS: No. And that's actually
3 a very good question.

4 There was one fiber in Robert Nolan's, or the
5 IERF study, where he did detect amphibole. And if you
6 remember, I said the amphibole asbestos can be fibrous
7 or it forms as a rod or a needle-like or a secular is
8 another term that is used. It depends on the
9 dimensions, but both the diameter and the length, for
10 it to be defined as a fiber of asbestos.

11 But Robert found in his microscopy was that it
12 was more of a blocky piece. And based on the
13 definition of what defines a fiber, he didn't
14 necessarily need to include it as a fiber, but to be
15 conservative he included it in his count. So he
16 included it as part of his count.

17 And going to the EPA study, they did detect
18 amphibole fibers. I believe it was eight fibers in one
19 sample.

20 COMMISSIONER KERR: What does this look like as
21 a percentage?

22 CGS GEOLOGIST HARRIS: It's a very small
23 percentage, but really what I think is important to
24 bear in mind in a general sense is that they're all
25 grouped together in terms of approved health-based risk

1 assessment calculations. So if it's amphibole, if it's
2 chrysotile, both are all within one basket for
3 calculation purposes.

4 COMMISSIONER KERR: Right. But that's sort of
5 the broad-brush regulatory environment, but there's
6 also -- as I understand your testimony, there's
7 substantial differentiation between the medical
8 opinions on health risks associated with these various
9 fibers.

10 CGS GEOLOGIST HARRIS: Yes, I'm not qualified to
11 talk about the medical aspects of it.

12 COMMISSIONER KERR: Let's get back to geology.
13 When we were there, this road, I noticed that there
14 would be options that could be used for dust control
15 potentially on the road. In fact, the county road is
16 the most sort of disturbed area that I saw when we were
17 there, created the most dust. And that's also where
18 the EPA was doing a lot of their measuring as I recall,
19 although maybe we can clarify that.

20 So are there options for sort of capping the
21 road that are compatible with these types of areas and
22 compatible with sort of environmental issues?

23 CGS GEOLOGIST HARRIS: The first step is we
24 would want to look at the numbers. We would want to
25 collect more numbers in times when it makes sense to

1 recreate at CCMA, at least in my opinion.

2 If you're going out there between November and
3 May, or November and April, that's a good time to
4 provide samples to do a health-based activity risk
5 assessment, to collect samples during those times.
6 Then you have a set of numbers.

7 In terms of factoring in areas that would reduce
8 your exposure, if part of that assessment included
9 recreation on the Clear Creek Road, the road you're
10 referring to, and that road is now capped, then that
11 definitely would lower the risk. In terms of how much,
12 that's hard to say.

13 But the important point would be if you have new
14 numbers that show it can be done safely for a certain
15 number of days per year as it exists now, and then you
16 improve the situation, then you're that much more safe,
17 if you follow me, because you provide another aspect of
18 limiting exposure, in addition to just moisture in the
19 soil.

20 COMMISSIONER KERR: And then one other issue,
21 and this may be outside your area of expertise. But I
22 know we've talked a lot about PCMs. I know there is a
23 lot of concern of these fine particulates that exist in
24 various environments around the state, including
25 potentially some of the neighborhoods around Oceano

1 Dunes. Is there any kind of relative data about the
2 relative risk of PCMs and naturally-occurring asbestos
3 exposure?

4 CGS GEOLOGIST HARRIS: With regard to Clear
5 Creek?

6 COMMISSIONER KERR: Well, just in general. I'd
7 like to kind of -- because asbestos is kind of a dirty
8 word for a number of reasons, including the industrial
9 use that precipitated a number of health issues, very
10 serious health issues, but this is a little different.
11 We're talking about naturally-occurring asbestos dust,
12 and I was trying to get a relative idea of how this
13 relates to a PCM kind of exposure that we're a little
14 bit more familiar with.

15 CGS GEOLOGIST HARRIS: Okay. First, I'd like to
16 ask you to clarify PCM?

17 COMMISSIONER KERR: PCM 10.

18 CGS GEOLOGIST HARRIS: PM10 is a particulate
19 matter with a diameter of ten microns or less.

20 COMMISSIONER KERR: Yes, that's it.

21 CGS GEOLOGIST HARRIS: To get to your question,
22 with regard to asbestos, we're talking about a
23 particular substance. PM10, it can be anything, it's
24 basically dust. And there is an inhalation health
25 hazard related to dust of that diameter or smaller.

1 In terms of the health risk for asbestos, it may
2 be larger than -- in fact, it is larger than PM10 in
3 most cases. The threat is more of impaling in the lung
4 tissue from the fibers themselves and that fiber
5 remaining in the lung tissue. It's a different process
6 than what might affect -- what the health effect might
7 be from PM10.

8 To give you an idea of background on asbestos
9 worldwide, Robert Nolan in the study mentions that, and
10 I don't remember the numbers, but there is overall a
11 background that is in the air, and every one of us has
12 been exposed at one point in time to background
13 asbestos, just like we've been exposed to dust in
14 general in the air. It's just it is there, and when it
15 becomes airborne, it can go for great distances.

16 CHAIR SLAVIK: This is an extremely complicated
17 issue, obviously. And I want to thank staff for all of
18 the time they've put into this. Up here, we're
19 essentially amateur volunteers, and to get your arms
20 around this is a huge task.

21 I think the first thing we need to bring to the
22 table is does somebody entertain a motion of writing a
23 letter that we're talking about. I think we want to
24 decide whether we want to write a letter or not. We
25 can move on with public comment, so if that's okay.

1 COMMISSIONER CABRAL: I'd like to make a motion
2 to write a letter to disagree with their decision.

3 COMMISSIONER MURPHY: I'll second that motion.

4 CHAIR SLAVIK: All in favor?

5 (Commissioners simultaneously voted.)

6 COMMISSIONER KERR: What's the nature of this
7 letter? We're going to discuss that separately?

8 CHAIR SLAVIK: Discuss that separately.

9 COMMISSIONER KERR: Okay. I'll vote for that.

10 CHAIR SLAVIK: It's been passed that we will
11 write a letter to oppose the proposed closure of CCMA.

12 That letter is going to Washington, D.C. It
13 doesn't go to the State Director, so it's a little bit
14 of different context, I believe. We have some very
15 strict parameters when we write that letter that we
16 have to adhere to.

17 Dan, I believe that you're going to be working
18 all weekend. This letter has to be out Monday. It can
19 be electronically submitted Monday, I believe, then
20 follow up with a paper copy?

21 OHMVR STAFF CANFIELD: Dan Canfield, OHMVR
22 Division.

23 CHAIR SLAVIK: Let's get the basics out of the
24 way first.

25 OHMVR STAFF CANFIELD: Monday, May 6th is the

1 deadline for protest. The Federal Regulations do allow
2 for electronic submission followed by a hard copy
3 submission postmarked by the deadline.

4 I must comment that the Federal Regulations are
5 very clear and provides great guidance on developing
6 this document, and I think that's the easy part.

7 I think the harder part is the Commission's
8 feelings based on public comment of how they would like
9 that document to approach the issue.

10 COMMISSIONER VILLEGAS: I just have a quick
11 question. Do we have a position from the
12 Administration?

13 CHAIR SLAVIK: We have a department within the
14 Administration that has a position, right, the
15 Department of Toxic Substances?

16 OHMVR STAFF CANFIELD: Commissioner Villegas,
17 the question was the Department of Parks and
18 Recreation? I'm not aware of the current position. It
19 is also being formulated.

20 COMMISSIONER VILLEGAS: Has our inclination of
21 our position been shared?

22 OHMVR STAFF CANFIELD: The inclination that the
23 Commission was desirable to have a meeting to discuss
24 the possibility of a protest was shared.

25 CHIEF JENKINS: I think what you're asking is is

1 the current Director aware of the Commission's -- if
2 I'm understanding you correctly, you're asking what is
3 the new leadership of the Department, who wasn't here
4 when the Commission wrote their original protest
5 letter, aware of the Commission's position. That is
6 yes. So we have thoroughly briefed our new Director,
7 Chief Director, and Deputy Director of the Division on
8 the history of the situation, the history of the study
9 that was done by State Parks, the Commission meeting
10 that was held out there, and the letter that resulted
11 from that. So they have all of that background.

12 We are putting together our own letter
13 commenting on this, and that will be going out Monday,
14 as well. It has not been vetted yet, so we're not at
15 liberty to really discuss that in public now.

16 CHAIR SLAVIK: Chief Jenkins, can you comment on
17 the previous Director's overview of this situation or
18 just characterize how she addressed the situation after
19 Chairman Lueder's letter?

20 CHIEF JENKINS: I don't know how productive that
21 would be. Because that director is not here, it really
22 has little bearing. But what I can say is with respect
23 to how the Administration approached that based on
24 input from the past director.

25 CHAIR SLAVIK: That's where I was going.

1 CHIEF JENKINS: The Administration was
2 supportive of us having those continued discussions and
3 conversations about alternatives. The Administration
4 never took a hard stance on this is right, wrong, or
5 otherwise, just that the process needed to continue
6 that was continuing of a healthy dialogue between
7 various agencies.

8 CHAIR SLAVIK: So to be clear then, there is no
9 line drawn in the sand by the Administration of yes or
10 no on this issue?

11 CHIEF JENKINS: Not at this time.

12 CHAIR SLAVIK: Okay. Does that help?

13 COMMISSIONER KERR: So does the BLM propose to
14 compensate the OHV Division for the substantial
15 investments that we made in the recreational facilities
16 there, some of which, you know, they continue to use,
17 some of which they bulldozed?

18 So in this plan was there any mention of
19 compensating the State of California, specifically our
20 Division, for these facilities that we developed for
21 them and they now propose to limit public access to?

22 OHMVR STAFF CANFIELD: Not that I'm aware of.

23 COMMISSIONER KERR: And that was a topic that we
24 discussed during our previous tour and meeting. I
25 think that -- I think the BLM -- I would like to see in

1 our letter that we ask for some kind of compensation.
2 If, in fact, this closure does happen, that we be
3 compensated for our lost investment in the property so
4 we can go somewhere else and buy some other land or
5 whatever. That's a point that I don't see here in the
6 letter.

7 I'm not sure what this letter is going to look
8 like, other than to say we don't like the idea of
9 closing it.

10 COMMISSIONER MURPHY: If I may, I think what we
11 need to focus on, and correct me if I'm wrong, is we
12 need to address the specific topics that were given to
13 the BLM as possible measures to allow further access to
14 the CCMA. So whether we identify the 2010 letter from
15 former Deputy Director Greene and the points that were
16 highlighted there -- I have those in front of me, I
17 don't think we have time for that -- but those specific
18 points I think need to be incorporated into the letter
19 so that we are on record as saying that we have made
20 suggestions to keep CCMA open, and those suggestions
21 were not taken into account by the BLM and therefore
22 the access to the CCMA is all but nil for off-highway
23 vehicle riding.

24 CHAIR SLAVIK: Let me interject here, just a
25 point of clarification. My understanding is that we

1 can only address the letter that Eric Lueder wrote,
2 but --

3 COMMISSIONER KERR: We heard different
4 testimony.

5 CHAIR SLAVIK: Hold on, let me finish, please.

6 But we still have an open discussion around all
7 of the other points that were brought up and all of the
8 other administrative or management options that are
9 available to us in that area.

10 As far as the letter that we're writing, we can
11 only address the points that were brought up in
12 Chairman Lueder's letter; is that correct?

13 CHIEF JENKINS: We were double checking with our
14 federal partners this morning, and our current
15 understanding -- and you all correct me if I'm wrong
16 back there; wherever you're sitting, I can't see -- was
17 that it's part of that record of what led to the
18 letter. So that there's a transcript of everything
19 that was discussed the day of the meeting when the
20 Commission decided to write the letter, and so that
21 body of discussion is still relevant and can be
22 addressed in this letter.

23 And it may help you all decide what direction
24 you want to go -- were you able, Debbie, to find that
25 page? Can you put that up?

1 In the document they have a table that in very
2 shorthand form outlines the various alternatives they
3 considered. So just in the range of how you're trying
4 to figure out how to address the letter, I offer as a
5 suggestion you could take, as you were just discussing,
6 that you don't like the decision that they've
7 identified as their preferred alternative, or you could
8 look at the other alternatives that were addressed and
9 perhaps frame your comments in some of those other
10 alternatives.

11 And I know that that's a very difficult table to
12 see, now that I see it on the screen, which is probably
13 why Debbie originally never made a screen shot of it.
14 Essentially, what that is showing is the green
15 alternatives A, B, C, D -- this is described in the
16 executive summary, which I think you guys have -- are
17 particular alternatives. You can see, but probably
18 nobody in the audience can, the second line down that
19 description in the green says, "OHV Recreation."

20 Alternative B, for instance, you look down at
21 the checkmarks, would have restricted -- you would have
22 to have permits, and there are some other restrictions.
23 Alternative A was just existing operations without the
24 closure, so that's just a bookend piece.

25 Alternative B is the one that when you really

1 read through the plan is where they looked at some of
2 the public comment, some of the Commission's
3 recommendations and comments, and have that alternative
4 that would allow OHV recreation with restrictions.

5 And so just in all fairness to BLM, it's not
6 that they ignored everybody's comments, and public
7 comments, they incorporated them into some of those
8 alternatives. They just haven't identified their
9 preferred alternative as one that allows that OHV
10 recreation.

11 And I know BLM folks back there said you can't
12 really discuss the plan at all. But if you're
13 comfortable just explaining the table or not, feel free
14 to do so. But as I say, I'm just offering that as a
15 framework for your letter.

16 COMMISSIONER KERR: So Alternative B basically
17 is opened up between December and April 15th, and then
18 it looks like there's some age restrictions on some of
19 this. That's Alternative C where you let people under
20 18 or...

21 CHIEF JENKINS: So here this is a permit to
22 restrict days in this alternative, and then also
23 install a public wash rack. Do you see that listed?

24 The age restrictions, it looks like, are on
25 Alternative C.

1 CHAIR SLAVIK: Here is our BLM and NEPA expert.

2 BLM ELIZABETH MEYER-SHIELDS: Hi, I'm Elizabeth
3 Meyer-Shields. As you said, I'm a land use planning
4 and NEPA expert. And I can't really speak to this
5 table itself. As Jane said, at this point in the
6 process, we can't discuss necessarily the specifics of
7 the plan.

8 But I did want to bring some clarity to what was
9 discussed about what's considered an issue as far as
10 protesting goes. I know we talked about that a little
11 bit this morning. And I checked the regulations, and
12 they require that a protest letter either point to
13 where something was in a comment letter or raised or
14 where issues were discussed for the record, is the
15 language that the regulations use.

16 And so, you know, whether or not something is
17 technically considered part of the record is a decision
18 for the Washington office to make, not necessarily one
19 that I would make. But what I would say is that
20 "discussed for the record" is a fairly broad statement.

21 And so, you know, if you can point to where it
22 was discussed with the BLM as part of the planning
23 process, that's what the regulations call for.

24 CHAIR SLAVIK: Let me interject here. Thank you
25 for that clarification. The problem is we have three

1 days to do that.

2 COMMISSIONER MURPHY: I can sum it up. If you
3 look at the Commission's letter that was sent on
4 page two of three, the fourth paragraph, states:

5 "The Commission believes the EPA
6 report did not look objectively at
7 scenarios in which the CCMA could be
8 reasonably managed to allow for
9 continued use by the public and
10 failed to consider management options
11 that would mitigate risks of exposure
12 to naturally-occurring asbestos."

13 That's in the original letter.

14 COMMISSIONER KERR: I remember the discussion
15 pretty well, and I think really what I'd like to talk
16 about is what alternative -- if we're going to write a
17 letter, what alternative are we in support of.

18 I find it disingenuous that BLM is unwilling to
19 discuss a public document that they produced, but maybe
20 Dan can help us understand this public document.

21 There's some alternatives on here, so it looks
22 like Alternative C is where you don't let the kids in.
23 That's what I'd like to know, if we're going to write a
24 letter, because I'd like to know what I'm supporting.

25 So we've got a bunch of different scenarios

1 here. I think we should get specific about which
2 one -- or at least I'd like to be specific about which
3 one I support based on the testimony that I heard, the
4 comments that were made, the tour that we did. And I
5 think that's where I'd like to focus is these
6 alternatives.

7 CHIEF JENKINS: And then, if I may, in relation
8 to what they were just reporting, you guys could put
9 together your preferences for what you want in the
10 letter, and then what we would do to staff you is to go
11 back and verify --

12 COMMISSIONER KERR: Find the references.

13 CHIEF JENKINS: -- those items. Because if you
14 recall at the Hollister meeting, it was a very
15 far-reaching discussion.

16 COMMISSIONER KERR: We talked about kids. We
17 talked about various asbestos. We talked about the
18 scientific data.

19 CHIEF JENKINS: That was a pretty global
20 discussion. I can't imagine you having kind of any
21 discussion today that wasn't encapsulated in that
22 discussion. We could go back and verify to make sure
23 that was a correct letter.

24 DEPUTY DIR. CONLIN: To that point then, do you
25 remember during that discussion was this quid pro quo

1 discussed where you talked about offering other lands?

2 COMMISSIONER KERR: We talked about the
3 investment that they had bulldozed, and the public
4 investment that was callously destroyed or now closed
5 to the public. And I can't remember if we paid for the
6 wash racks that the BLM is using right now, as well,
7 but I think we might have paid for that, too. So I
8 would just like to know why don't we open those up to
9 the public?

10 COMMISSIONER CABRAL: I just wanted to point out
11 your concerns about the numbers here, on the second
12 page of the letter that former Commissioner Lueder
13 produced, the first paragraph does mention almost
14 \$7 million that was invested in the facilities down
15 there. So I think what you're talking about is
16 definitely relevant.

17 COMMISSIONER KERR: Before we go on record of
18 approving having kids under 18 come to this place, I'd
19 like to understand what we're suggesting.

20 COMMISSIONER MURPHY: We should hear public
21 comment on that.

22 CHAIR SLAVIK: Well, all right.

23 COMMISSIONER CABRAL: I just wanted to go in a
24 little bit of a different direction here, and this
25 might be a question for Will.

1 On the second page of that letter that I just
2 referenced from the former Commissioner Lueder, he has
3 a note here, a concerned with President Obama's
4 Memorandum on Scientific Integrity that was dated
5 March 9th, 2009.

6 And I'm new to this Commission, so I didn't get
7 to see some of the stuff that these other Commissioners
8 have. So we had this big stack of paper that I got to
9 go through and kind of get up to speed and do some
10 research on the Internet and such, and I kind of had a
11 lot of concerns with what I thought the integrity of
12 some of the scientific studies were. And one of them
13 was the wet weather conditions for the EPA study.

14 In November of 2004, they did what they
15 considered a moist conditions, which had two or
16 three inches, which is a vague number, of rain
17 approximately two weeks prior to their collection.
18 Now, I know we discussed this prior to the meeting, but
19 that's not specific science to me. I kind of think
20 that's a little bit out of line as far as being in
21 integrity with the statement that President Obama put
22 forth.

23 So that's where I kind of have my question. I
24 think we should have our letter focus on that because I
25 think that's something that people back east would be a

1 little more concerned with is something that is coming
2 out directly from the top. So my question to you would
3 be: You being an expert, do you feel that the study,
4 was it a vague study or was this a very complete
5 scientific study?

6 COMMISSIONER MURPHY: Can I touch on something
7 just before we keep going? I just want to take caution
8 in that that reference was not very well received by
9 certain --

10 COMMISSIONER KERR: You don't want to pick a
11 fight with the EPA.

12 COMMISSIONER CABRAL: I understand. It's a
13 technical question, and I'd like to know the answer.

14 COMMISSIONER MURPHY: It's a good question, and
15 it's worth discussing. I just want to caution about
16 going down the road of questioning the integrity. Just
17 as a body, I think we should be very careful with that,
18 in that verbiage is all. It's a good question, and we
19 need to discuss it. I just wanted to just caution.

20 CGS GEOLOGIST HARRIS: What was found in the EPA
21 study is not in dispute. And the only thing that
22 Robert Nolan's IERF study, the purpose of it was to
23 demonstrate are there days when OHV recreation,
24 specifically motorcycle recreation, can be conducted
25 such that it is safe with regard to an inhalation risk

1 hazard from asbestos, and that report demonstrated that
2 there could be days when that was the case. He used
3 his data, and he used some of the data from the EPA
4 report.

5 The EPA study was a broad study. In terms of
6 its quality and that sort of thing, calculations,
7 et cetera, I think it factored out fine. In terms of
8 what was done with it is a management decision.

9 COMMISSIONER CABRAL: But does it look like in
10 your opinion that they used the other study in their
11 decision-making process?

12 CGS GEOLOGIST HARRIS: What has been done in the
13 latest draft of the Resource Management Plan is that
14 they have applied adaptive management criteria, which
15 means they provided a toe in the door to modify their
16 management based on additional data that may be
17 provided.

18 And the Division has contracted with
19 Robert Nolan to provide additional investigation into
20 those wetter months, and I believe it's a hope of the
21 Division that BLM would consider that additional work
22 that would be done by IERF.

23 COMMISSIONER CABRAL: Because I'm looking at
24 Rick Cooper's letter here dated July 20th that was sent
25 to Commissioner Lueder, and it says here that:

1 "Decisions about public use in
2 the area will be designed to reduce
3 risk to public health based on the
4 best available information. The BLM
5 will continue to consider new and
6 credible information related to human
7 health risk for visitors in the
8 CCMA."

9 So he stated that in writing that that would be,
10 so they're open to the possibilities then at that
11 point?

12 CGS GEOLOGIST HARRIS: That's correct. That's
13 my read of it, yes.

14 CHAIR SLAVIK: Any other questions from the
15 Commission? Should we move to public comment then?

16 Caution, folks, even though this is a very
17 contentious issue, you are limited to three minutes in
18 your comments.

19 And I think at this time we could entertain the
20 Commissioners to question the people that are coming up
21 to the podium for public comment if there is any
22 additional information you think you can get out of
23 that? Okay. All right.

24 JIM BRAMHAM: Good morning, my name is
25 Jim Bramham. I represent the California Association of

1 4-Wheel Drive Clubs who has used this area annually for
2 one of their events, the Altadena Ghost Run, for many
3 years. It's also experienced a lot of casual use by
4 four-wheel drive folks for both camping and touring.

5 We find it very important that the Commission do
6 what is being requested of them, which is to protest
7 this basically on the grounds that the good science
8 that has been offered has not been adopted into the
9 plan as is currently proposed.

10 And as a former Commissioner, I was one who
11 voted to spend plenty of that money that Commissioner
12 Kerr spoke of to make improvements in this area
13 annually for years to try to meet the goals that both
14 EPA and the BLM had set for the area. And it is
15 frustrating to see that we have met all of these
16 criteria and yet they have elected to go in a different
17 direction and subsequently destroy some of those
18 investments.

19 But we would like to encourage you to write that
20 protest letter, make it as firm as possible and get
21 this area back open, please.

22 JOHN STEWART: Good morning, Commissioners.
23 John Stewart representing California Association of
24 4-Wheel Drive Clubs. It's interesting listening to one
25 of the comments out of Commissioner Murphy about

1 reading that passage out of former Commissioner
2 Lueder's letter where it cited looking at alternative
3 strategies.

4 I think one of the points to really stress here
5 is that that whole concept of alternative strategies
6 has not been adequately addressed in the final as it's
7 somewhere within this it said that even BLM in their
8 documentation here recognizes that additional studies
9 are warranted, and yet there appears to be an
10 arbitrary, capricious closure of the area without due
11 process, without the solid scientific rationale to do
12 so.

13 Yes, further study is required, should be done.
14 And in the meantime there are management alternatives
15 to limit the potential risk. As was stated by the
16 geology description there, there's slightly over 70,000
17 acres of which the real risk lies within a small
18 portion of that, and yet the entire area is closed and
19 not just a small portion.

20 So really looking at viable options, viable
21 alternatives, it is completely within the Commission's
22 prerogative in the protest letter to not only identify
23 what the letter submitted commented on, but also offer
24 up bits and pieces of the various other alternatives
25 and say, well, this should be done and something that

1 is not part of the deferred. So it's mix and match,
2 yes, that's appropriate.

3 So, again, I'd encourage you to go ahead with
4 the letter and let's look to having the BLM actually
5 engage in management of the area. So thank you.

6 TOM TAMMONE: Good morning, Tom Tammone speaking
7 as an individual. Thank you for considering this
8 matter. I'm glad to see as stewards of our fund that
9 you're interested in the issue of the money that we
10 spent, over \$6 million, over the decades on this area
11 that is apparently being arbitrarily wasted.

12 All of these issues have been discussed -- I was
13 at the Hollister meeting about this issue -- well
14 in-depth on record with the BLM present. So as far as
15 I'm concerned, everything being discussed here is
16 relevant to the process. The whole thing is they just
17 don't care, and that's the pattern. I don't know
18 whether it's the current administration on down that's
19 causing it. It seems to be rather rampant at the
20 entire federal level. Law enforcement, when it comes
21 to doing questionable things, they won't do things to
22 help us like write noise tickets under questionable
23 conditions to keep a trail open because they get a lot
24 of noise complaints. But if it's a gray area like
25 having to write tickets for a closure area, well,

1 they're all over that. So the whole impression I get
2 is they don't care.

3 And if it's not appropriate to mention it in the
4 letter, when you've still got time to get due notice
5 out for the next meeting coming up in a couple of
6 weeks, just generate a court process and serve it.
7 It's that simple. They'll understand that; trust me.
8 Thank you.

9 DAVE DUFFIN: Good morning, ladies and gentlemen
10 and Commissioners. My name is Dave Duffin, and I'm the
11 board chairman of Carnegie Forever, Incorporated. We
12 incorporated as a 501(c)(3) after Carnegie was almost
13 closed. And also when we see things like this
14 happening to our neighbors down south, we absolutely
15 must let them know, the people who are in the room
16 behind me, that we would do anything we possibly can,
17 we will run right into that thing as much as possible.

18 We have 13,000-plus subscribers. We will put
19 them on notice that notifications have to go out to
20 whoever, wherever, and whenever to try to solve this
21 problem. And we just don't want to leave any man
22 behind. Thank you very much.

23 COMMISSIONER MURPHY: If I can add to that, kind
24 of what he's getting at there and what I would
25 encourage every single person in the room here, no

1 matter how you feel on this topic one way or another, I
2 strongly encourage all of you to contact your federal
3 representatives and encourage them to look into this.
4 Because the more voices we get on it, the more affect
5 we're going to have. So you out there can do your part
6 as individuals, and we'll do the best we can up here as
7 a group to try to get this done and try to get some
8 more recreation access for us.

9 MARK MARTINEZ: Hello, I'm Mark Martinez, and
10 I'm with the Carnegie Forever Group, and I'm on the
11 board. And I am also in support of Clear Creek. I
12 want that park opened. Thank you.

13 JENNIFER SCHRECK: Hi, my name is
14 Jennifer Schreck, and I'm here to representative
15 myself, my family, and numerous friends who can't be
16 here today. I just really feel that BLM has denied the
17 right to access our public land. I am writing my own
18 protest letter, but obviously you guys can do a much
19 better job I'm sure than I would be able to. So I'm
20 looking to you to help express my voice.

21 I haven't read through the entire document yet,
22 but I've gotten a portion of the way through, and
23 several of the sections that I want to protest
24 specifically are the Management Alternative Section
25 2.3.2 which have the implementation decisions and the

1 land use decisions.

2 I really want to protest that we're not being
3 given the right to individually decide based on all of
4 the warnings we've been given. The risks that are
5 there, we should have the right to decide for ourselves
6 whether or not we want to make that -- take that risk
7 and recreate in the area.

8 The permits that they're suggesting are far too
9 restrictive. Only five days per year is completely
10 unreasonable. The day-use restriction also, I don't
11 see what the difference would be between driving
12 through there at night versus driving through there
13 during the day, how that's going to be like different
14 asbestos exposure levels depending on whether or not
15 the sun is up.

16 Also, limiting the camping only to Jade Mill is,
17 again, too restrictive. Part of the joy of going to
18 Clear Creek is how wild it is, how far away from
19 everything you are, and trying to cram all of the
20 visitors into just one campground again is ridiculous
21 and far too restrictive.

22 In flipping through some of the documents here
23 today, the State's letter from -- Daphne Greene's
24 letter to the BLM dated April 19th, 2010 did cite
25 mention of waivers. I would be more than happy to sign

1 a waiver when I enter the park acknowledging the risk
2 and taking responsibility for that and for myself.
3 When I go to AMA races, I sign a risk waiver. And when
4 I go to a Motocross track, I sign a risk waiver I'm not
5 going to hold anybody responsible.

6 And when I do go there and when I do camp, I am
7 aware of the risk. I take extra precautions. I put
8 out extra tarps. I make sure I wash everything when I
9 get home. There is plenty that I can do to mitigate my
10 own risk and my own exposure. I don't ride too close
11 to the person ahead of me, and I don't sit there and
12 breathe the dust in.

13 That new House of Representative bill, I am very
14 pleased with. I would really hope that the BLM can
15 take that into consideration. But, again, I don't feel
16 that BLM has addressed the motorcycle community's needs
17 whatsoever in this new plan. Thank you.

18 CHAIR SLAVIK: Jennifer, hold on a second, if
19 you will. Do you have family that recreates there did
20 you say?

21 JENNIFER SCHRECK: Yes.

22 CHAIR SLAVIK: Can you give me a description of
23 your family? Is it multigenerational?

24 JENNIFER SCHRECK: Yes. It's more my
25 boyfriend's side. They've been going there for years

1 like day use, just a lot more room for them to go.
2 They would love -- and also once a year they used to do
3 like a week-long vacation there. That would be where
4 they would go on vacation.

5 They would drive down, drive through Hollister,
6 spend their money in the local communities buying gas,
7 food, supplies and everything. And go down there and
8 spend a week maybe camping in one location for a couple
9 of nights, camping in another location for a couple of
10 nights, and just all around having a really good family
11 recreational experience. And, you know, some people go
12 to church. This is my church.

13 COMMISSIONER MURPHY: Ma'am, would you say it's
14 a fair characterization to characterize the CCMA as the
15 Yosemite of off-highway vehicle parks in California?

16 JENNIFER SCHRECK: 100 percent. And, actually,
17 I can't believe I forgot to mention that. It's been
18 cited as one of the top ten recreation riding areas in
19 the entire country numerous times.

20 I've never seen anything like it. I don't think
21 I ever will again. Being there has actually -- my
22 appreciation for the outdoors has grown, my
23 appreciation for the environment and protecting the
24 environment has grown by being there.

25 Things that I've seen there on my motorcycle I

1 would never be able to see if I parked my car and went
2 for a hike. I can't actually really hike very well. I
3 have issues with my knee and everything. So it's a lot
4 easier for me to hop on a bike and be able to see
5 amazing areas like that. It's just a very, very
6 special experience.

7 CHAIR SLAVIK: Thank you for your time.

8 DAVE PICKETT: Dave Pickett, District 36,
9 Motorcycle Sports Committee. Good morning,
10 Commissions, welcome Deputy Director Conlin, we're glad
11 to have you here.

12 Well, a very emotional issue. I'll start
13 quoting my friend, Don Amador, who says that all
14 land-use issues are political, and I think this is at
15 the top of the chart.

16 It appears based on all of the reports that I
17 have read, including the King James version of the
18 latest BLM document and its predecessor, the 2009
19 report, that a lot of effort has gone into this.
20 There's also a lot of science that's being debated, and
21 a lot of bantering back and forth between the EPA and
22 IERF.

23 To the public, to me, myself, to the members of
24 District 36, we're confused on all of the documents
25 that we read. We have one that questions the other.

1 We have the Russian Federation, who I understand is the
2 top scientific agency on the planet, regarding size of
3 amphiboles and all of the other various strains of the
4 asbestos fibers, it's still not clear. Based on at
5 least ten meetings that I've been to on this particular
6 topic, it still is confusing, anything from the
7 socioeconomic discussions to the scientific integrity
8 letter that was quoted from the Commission prior.

9 Commissioner Villegas, I'm sorry for the
10 pronunciation, she asked a comment about the
11 Administration's position on this. And in the back of
12 this latest version of BLM, there was a comment made
13 that says: And the Commission are theirs alone, and
14 they do not necessarily reflect the views of the
15 Administration, and in particular the Administration
16 does not share the view articulated in the letter that
17 the approach taken by EPA is not consistent with
18 President Obama's Memorandum on Scientific Integrity.

19 I dispute that comment from former Director
20 Coleman, as I was at the Obama initiative on outdoor
21 recreation in Los Angeles, and scientific integrity
22 from the Obama administration was stressed. I hope
23 that clarifies that particular point.

24 OHV recreation by roundtable consensus, back in
25 I believe it was '05 was a series of OHV recreation

1 that SCCIA started in 1946. And I see I'm out of time,
2 but I have lot more that I would like to say.

3 But District 36 supports the letter that you're
4 going to write on behalf --

5 CHAIR SLAVIK: Give you another minute, Dave.

6 DAVE PICKETT: Thank you very much. I
7 appreciate that.

8 I know of no reports substantiated on any
9 asbestos-related deaths coming out of that area going
10 back to that 1946 date I just mentioned. I can't find
11 it anywhere. Even some of the EPA documents that are
12 there stress that they can't find it.

13 There's also a lot of words within the EPA's
14 report that uses words like "estimates", "possible",
15 "predicted" and "anticipated". I'm not seeing the
16 solid science.

17 Yet if I go to the IERF report, there's comments
18 in there about predicted mesothelioma deaths among CCMA
19 rider possibility is .16 percent. Now, that's not very
20 many. But you also go back to another report that says
21 the EPA is deliberately assuming all types of asbestos
22 fibers are equally carcinogenic. I dispute that.

23 Thank you for the additional time, and I
24 appreciate the support of the letter. Thank you.

25 BRUCE BRAZIL: Bruce Brazil speaking as an

1 individual at this time. First, I'd like to thank
2 Deputy Director Conlin and our new Commissioners for
3 stepping up and filling in the empty positions.
4 Hopefully, the Governor can fill in the last two of the
5 Commissioners' spaces.

6 First thing I'd like to maybe make a statement
7 or comment or opinion on Commissioner Kerr on having
8 the BLM reimburse the Division on the finances, that
9 was not part of the initial scoping for the EIS and
10 RMP, so it probably would be something that should be
11 taken up at another time.

12 But following up on that, I wonder if there is
13 anything in the contractual agreements that the
14 Division had with the BLM as far as maintaining or
15 retaining the projects that the Division helped pay
16 for.

17 We're talking about the scientific integrity,
18 the EPA's health risk assessment exposure limits and
19 such all seem to be predicated on industrial exposure.
20 Most of the time this is within a confined area, a
21 building, submarine, who knows what, and for a very
22 lengthy amount of time, you know, eight-hours-a-day
23 people working that are in there. Whereas, so far I've
24 heard nothing and read nothing as far as recreational
25 exposure to chrysotile. So I think there is something

1 to be said and looked into there.

2 Potential health hazard, that's what they're
3 saying: This is a potential health hazard down in
4 CCMA. No health problems or deaths have been able to
5 be documented due to the recreational exposure down
6 there. Whereas, you have something like Yosemite, last
7 year they had the hantavirus that killed three people,
8 and I think an additional five more that were very
9 sick. They've had drownings in Yosemite. They've had
10 rock climbers die. Is Yosemite closed? No. Are
11 people stopped from doing climbing up Half Dome? No.
12 Is the Merced River fenced off? No. I think when
13 you've got actual deaths versus a potential, something
14 very unfair here. Thank you for your time.

15 ROSS ROSS: My name is Ross Ross, first and last
16 name. I'm an individual. The only thing I wanted to
17 bring up was this whole thing seemed to have started
18 from a risk assessment, and it's not a risk comparison.
19 A risk assessment is wild guess of possible injuries
20 that might happen to us.

21 If it made a risk comparison between the
22 asbestos here in this building, on the streets of
23 San Jose or San Francisco, it would probably show that
24 it's healthier in Clear Creek due to the fact that here
25 is our manufactured asbestos, it's in the dust, it's

1 been on the streets for hundreds of years, flown up
2 every time a car goes by, compared to the
3 natural-occurring asbestos which is iffy if it does any
4 damage at all due to the fact they haven't found a
5 single person ill.

6 The whole thing seems way skewed like they're
7 making it try to look like they're saving us, but they
8 aren't. They just have an agenda. They're doing what
9 they like. Thank you. That's all I have to say.

10 DIANA MEAD: A little tongue in cheek first, I
11 have no doubt should it be decided that the BLM should
12 be reimbursing us for our investment at Clear Creek
13 that it will come in the form of a grant request by the
14 BLM that we pay for it ourselves.

15 I'm going to urge you not to entertain
16 negotiating away access for our children. A couple of
17 the speakers have alluded to the fact that this is
18 recreational access as opposed to industrial or
19 professional access. Look for the science.

20 If there are truly risks in the area, then
21 perhaps the camping areas where the most risk or
22 exposure might be can be placed in areas where there is
23 the least amount of asbestos. Kids' exposure is going
24 to be significantly less than an adult because they
25 ride about half the time, and they do spend more time

1 on the ground perhaps, but they're just not out there
2 as much.

3 When they start at this age -- well, let me put
4 it this way: I've been to Clear Creek one time. I
5 have an 18-year-old son who has been there the same one
6 time, and he's a professional motorcycle rider, and he
7 would love to go to Clear Creek. It's not been
8 available to him, at least not legally.

9 There's some camping options we can look at. I
10 would like to once again say we don't have any
11 anecdotal evidence of carcinogens or cancers caused by
12 people who've recreated at Clear Creek. And it's not
13 as if the data can't be there. We've been recreating
14 there for over 40 years. There has to be some
15 indication that the exposure has caused the problem.
16 If there isn't any, I think that needs to have some
17 kind of counter.

18 And I guess I want to also mention that, you
19 know, you had a rider up here. It's very powerful when
20 those people who stand before you, like many of you,
21 are actually off-highway recreationists. This matters,
22 and it matters in a way that we keep losing. This one
23 we need to get back. We need to do it the right way.
24 We need to show the science. We need to do everything
25 that we can correctly, but we need a win here, and we

1 deserve a win because I think we're really standing on
2 the side of right this time. Thanks, guys.

3 AMY GRANAT: Amy Granat, the California Off-Road
4 Vehicle Association, CORVA. First of all, welcome to
5 new Deputy Director Conlin, it's a pleasure to have you
6 here, Commissioners.

7 One of the biggest problems in this study is one
8 I haven't heard anyone mention yet. First thing you do
9 when you get a NEPA document is you look for the
10 response to comments, and hopefully your own comments.
11 And this sentence -- actually, paragraph raised
12 concerns, in the response to comments it says:

13 "Many comments raised concerns
14 that are not environmental issues.
15 Within the context of the National
16 Environmental Policy Act, NEPA, or
17 outside the scope of the CCMA RMP EIS
18 because they are not under the
19 authority or within the jurisdiction
20 of the BLM, pursuant to NEPA, the BLM
21 is only required to provide
22 responsive comments that raise
23 substantive environmental issues
24 under NEPA in this appendix.
25 Responses to public comments that are

1 non-substantive, excessive or outside
2 of the scope of BLM's land-use
3 decision for the CCMA are limited to
4 a brief decision."

5 And then they go on to explain which comments
6 aren't being answered, and it's every comment that's
7 about the EPA report. And they have decided these are
8 non-substantive comments that they don't have to
9 respond to.

10 If I stretch I can sort of see their point.
11 Perhaps, they don't have to under NEPA, but they could
12 have. So what they're basically saying is we're not
13 allowed to comment on the very document that predicated
14 the closure and that predicated this management plan.
15 Something about that doesn't make sense, and something
16 about that actually is disingenuous to the public.

17 If we're not allowed to comment on the very
18 action or the very study that caused this action, we
19 lose all ability as members of the public to make an
20 impact or to change or to have any impact on what is
21 going to be the end result, and I really would suggest
22 to the Commission that that be one of the topics in the
23 letter because it really takes away the power that NEPA
24 gives the public. We're supposed to be part of the
25 decision, not removed from the decision. Thank you.

1 NICK HARIS: Nick Haris, western state
2 representative for the American Motorcyclists
3 Association. Welcome, Commissioners, staff and the new
4 Deputy Director Conlin. I think I sent you an e-mail
5 yesterday. We'll talk about that at public comment. I
6 think on the non-agenda items, I want to bring that up.

7 I just wanted to say real quick, we do support
8 the letter concept very much, and I do agree that this
9 issue -- I've probably been to all of the meetings, if
10 not all of them, most of them. The issues have been
11 raised. Whether they were in Chairman Lueder's letter
12 or public discussions we've had, I think they've been
13 covered. And I think, frankly, let BLM assert that
14 they weren't. But I think if there is an issue that
15 you feel strongly about, you should raise it.

16 I do think there is some language that requires
17 basically a good faith effort by the BLM to keep the
18 opportunities available or replace them with a
19 comparable opportunity as far as the grant agreements.
20 So I do think we should look into how that would be
21 enforced. I like the idea of them coming for another
22 grant to pay back the other grants. That's funny.

23 We discussed at one of the other meetings the
24 use of signage. And if you think of any of the places
25 that the public recreates, like ski areas, or I know we

1 talked about an example in the Bay Area for fishing
2 where there are some signs indicating that there is
3 higher levels of lead, or I think there's one example
4 where there's a pier that had maybe some sort of a
5 hazardous effect so they recommended not eating fish
6 more than once a week out of that area.

7 So there are ways to address this. There are
8 ways to inform the public. The disclaimers, we, of
9 course, appreciate the disclaimers at the AMA for the
10 events, and we do have a very good track record with
11 those as far as letting riders know the dangers and
12 basically informing them and letting them make an
13 informed decision. We do that all the time.

14 We've heard already some great examples from
15 Bruce Brazil. There are plenty of things in this world
16 that are dangerous. As individuals, we as a collective
17 society make decisions. Ski areas aren't closed;
18 freeways can't closed, et cetera, et cetera.

19 And I guess the only other thing I wanted to say
20 is I think we should ask -- as a Commission, I would
21 like to see ask for an extension. We're already up
22 against a Monday deadline, which is pretty soon. And
23 also consider supporting House Resolution 1776,
24 submitting a letter either from the Administration or
25 from the Commission or even individual commissioners if

1 it wasn't something we could agree to as a body. Thank
2 you for your time.

3 STEVE KORETOFF: Good morning, everyone. Thank
4 you for this opportunity to make a public comment. I'd
5 like to thank all of the staff here, the Commissioners
6 and the State staff, as well as the BLM staff that was
7 able to attend today.

8 By no means do I mean to be argumentative or
9 combative regarding the Clear Creek FEIS, but it may
10 come off that way. That's not my intention, let me say
11 that first and foremost. I want to work in a
12 collaborative process with the various agencies to come
13 up with the best solution that we can that provides for
14 motorized recreation in the Clear Creek Management
15 Area.

16 I am the Resource Advisory Council OHV member
17 and currently the sitting chair. I'm also the chairman
18 of the OHV Subcommittee for the Resource Advisory
19 Council for BLM, so I have quite a bit of experience
20 discussing this at the Resource Advisory level. I'm
21 also a member of the Friends of Clear Creek Management
22 Area; work very closely with the Salinas Ramblers
23 Motorcycle Club; work with the Timekeepers, as well;
24 Cal 4-Wheel Drive. A lot of the people that have been
25 up here, I've worked very closely with.

1 So that being said, one of the issues I want to
2 bring up is the integrity statement from the President,
3 EPA Director Jackson, as well as the Department of the
4 Interior Secretary Ken Salazar. I have here before you
5 something that I'm just going to read real quick. It's
6 a lung cancer mortality among females in Quebec's
7 chrysotile asbestos mining areas compared to that
8 predicted by the U.S. EPA exposure effect model. I'm
9 going to skip through all of the technical data and
10 just read the final section of the abstract, and it
11 says:

12 "The EPA risk assessment on
13 asbestos greatly overestimated the
14 risk of lung cancer attributed to the
15 environmental asbestos exposure in
16 this population."

17 I have several other instances of this where EPA
18 has overestimated risk, and another group has come
19 behind them. And one of the things that you'll find
20 consistent when this occurs is that there is no
21 physical evidence showing risk. So in the Clear Creek
22 Management Area, we know that there's not a history
23 there of the white lung, like you have with coal
24 mining, the black lung. Well, there is no white lung.
25 We don't have some of these issues that have popped up

1 in other parts of the world. So currently there is no
2 physical evidence to justify that.

3 We also have scientists here in the United
4 States that have been cautioning EPA over their
5 methodology and the way that they consider particulate
6 matter under a microscope of what is asbestos and what
7 is not, using a threshold of a particulate matter that
8 is three times longer than it is thick. And according
9 to Professor Mickey Gunter from Idaho State University,
10 who's one of the top specialists in asbestos in the
11 United States, states, "Under these non-mineralogical
12 definitions of asbestos, most of our world would be
13 naturally contaminated." In another article --

14 CHAIR SLAVIK: Steve, I'm sorry, I'm going to
15 cut you off. What I would suggest is that you hook up
16 with Dan Canfield right there.

17 And I think, Dan, he probably has some
18 information that's pretty valuable for you at this
19 point.

20 STEVE KORETOFF: We want to thank you for this
21 opportunity. And if it's possible, we would encourage
22 you at this time to consider supporting HR 1776.
23 Unfortunately, we as the public and the motorized
24 recreation community feel like there is just not any
25 good faith being shown on some of the other agencies'

1 part, and that unfortunately legislation may be our
2 only vehicle to return the public into an extremely
3 beautiful and highly diverse area that's not found like
4 this anywhere else in the world. Thank you very much.

5 CHAIR SLAVIK: We're going to take a short
6 break. Our plan is -- it's now about a quarter to
7 11:00 -- that we finish public comment. We still have
8 public comment on non-agenda items.

9 So what is the pleasure of the Commission as far
10 as lunch? Do we want to go about an hour here into
11 this? How many non-agenda items do we have? We can
12 probably do that relatively quick. So if we take a
13 break now, do we want to take a break long enough to
14 get a bite to eat or do you want to go for about
15 another hour and then close the hearing?

16 COMMISSIONER VILLEGAS: I feel we should work
17 through this and get it over with. I don't mean that
18 in a bad way, but just complete it.

19 COMMISSIONER KERR: I agree.

20 CHAIR SLAVIK: So we'll take a break until
21 twelve o'clock, come back, and we will finish up and
22 then close the meeting.

23 (Returned at 12:01 from a break beginning at 11:43.)

24 CHAIR SLAVIK: I'd like to reconvene the
25 Commission meeting after the break here and finish the

1 discussion of whether we were going to write a letter
2 or not.

3 I assume at this point we're going to write a
4 letter. I guess the content is the issue that we're
5 going to have to deal with, the general content. The
6 specifics, we're not going to be able to do that here.

7 So anybody have any ideas about the content that
8 we --

9 Dan, are you going to take notes on this?

10 COMMISSIONER MURPHY: I'd like to suggest for
11 the content of the letter it would be in two parts, and
12 the first part of the letter would reference specific
13 comments that were made in the original Commission
14 letter so that we're covering the topics that we need
15 to cover and just showing or asking why the BLM hasn't
16 addressed those points.

17 And then the second half of the letter would be
18 more of an impassioned plea for whoever that person is
19 just to listen to the public on this and the comments
20 that have been made here today, and just reference the
21 importance of the CCMA and why it means so much to the
22 OHV community in California, and I would be willing to
23 help with that, Dan, if that's of benefit.

24 COMMISSIONER CABRAL: Well, I think that the
25 people that have been representing the organizations

1 haven't made a point of how many people they are
2 actually representing because I think in public record
3 it would be nice to know the size of the people that
4 would be affected by this because I think that would be
5 one of the items that Dan spoke of is how many people
6 are adversely affected by this decision is important.

7 So maybe if any of you come up and comment
8 again, I would really like to know how many people are
9 in your organization so we can kind of get a feel for
10 that.

11 CHAIR SLAVIK: We probably have some visitor
12 data on that. Does BLM have visitor data on CCMA?

13 AUDIENCE MEMBER: I believe the plan speaks to
14 that.

15 COMMISSIONER CABRAL: I'm not necessarily
16 talking about people using the park. I'm talking about
17 the people that are making -- how many people are being
18 represented in this actual environment right now
19 because we have a number, like say 15 speakers, but one
20 of those speakers could be representing 5,000 people.
21 So that's the direction I'm going with that.

22 COMMISSIONER KERR: I'd like to see a reference
23 to the lack of -- we had some testimony, we talked
24 about this at a prior meeting, the lack of any
25 physical -- I don't know if the appropriate word is

1 anecdotal evidence of real world outcomes as a result
2 of this theoretical risk.

3 So what we've heard over and over is that there
4 are no adverse real world outcomes that have been
5 presented as evidence of the theoretical risk. And in
6 the absence of that real world data, that, you know,
7 the actions of completely closing the facility are
8 probably more than needs to be done here.

9 And so I think we also ought to -- they have our
10 prior letter, certainly a reference to it doesn't
11 appear that the points made in our prior letter were
12 considered as part of -- in formulating the plan; two,
13 the lack of real world data; and then, secondly, I
14 think we ought to propose some interim strategy for a
15 partial opening.

16 So what exactly -- I mean I personally am not in
17 support of 365-day-a-year opening of this area. I know
18 when I've been down there with my kids and his friends
19 and before they closed it, and we went down there
20 during the rainy season, and that's when Hollister has
21 got a limited capacity because part of its closed,
22 that's when people used to come to this place. That's
23 the appropriate time. I don't think it's appropriate
24 to go down there in June, July, August, or September.
25 So isn't that part of what we're going to put in the

1 letter, preferred Alternative B or C seems to be the
2 more appropriate action to take.

3 COMMISSIONER MURPHY: One thing, and this is
4 just my personal opinion, when you're going to try and
5 negotiate a position, and we need to decide amongst
6 ourselves how we want to go about this, is if you want
7 to negotiate -- if you plan to arrive at point C and
8 you have parties that are at point A and all the way to
9 point F, if you can just picture the span, you want to
10 request as much as possible and hopefully you arrive in
11 the middle. Because wherever you start from, you're
12 not going to get that. I don't believe personally that
13 we would get exactly what we ask for. There would
14 probably be some middle ground that's arrived at, if we
15 can even find that middle ground.

16 So do we want to specifically ask for a certain
17 level of access or do we want to ask for as broad an
18 access as possible, and hope we get somewhere in the
19 middle? How do we want to go about --

20 COMMISSIONER KERR: I'm concerned about this
21 Commission's reputation and standing as being a
22 reasonable voice representing all of the various
23 interests, including the hardcore off-road people,
24 including those environmentalist interests that we
25 should consider, and I'd like to preserve this

1 Commission's standing as a voice of reason. So I don't
2 know if I would approve of the strategy that you're
3 suggesting.

4 COMMISSIONER MURPHY: I agree with you entirely
5 on that. So are we looking at maybe the Option B or C?

6 COMMISSIONER KERR: Well, that's what I would be
7 more in favor of.

8 COMMISSIONER MURPHY: I think Option B because
9 whenever somebody from the public here requested access
10 for children, we want to protect the public, we want to
11 protect children, but at the same time we want to try
12 to allow people to make informed decisions about what
13 they feel is a risk and not a risk. That's my personal
14 opinion.

15 COMMISSIONER KERR: That was the December 1
16 through April?

17 DEPUTY DIR. CONLIN: You have a copy of it up
18 there.

19 COMMISSIONER KERR: That's the December 1
20 through April 15th.

21 DEPUTY DIR. CONLIN: Can we pop that up on the
22 screen for the public?

23 COMMISSIONER CABRAL: I'd like to interject
24 something here. I think that these scenarios are based
25 upon flawed science, and I'd like to go back to my

1 comment earlier about the moisture content in the soil
2 not being a factor, and I know that's a big factor.

3 This year would be a classic example of we have
4 a situation where we're in a drought condition as of
5 January. At this time if we were really trying to be
6 safe and protect people, then we would probably have --
7 this place, if it had proper soil samples and stuff
8 done, it would need to be closed some time around
9 February or March of this year.

10 There have been other years where we'll get rain
11 clear into April. I've been in areas where we are
12 getting rain on Memorial Day weekend, so it can be very
13 wide ranging.

14 So I just think they kind of need to go back to
15 the drawing board here and come up with a legitimate
16 plan that actually has science behind it and is keeping
17 in mind with what the public wants, and that is
18 obviously, what I can see here, is that the public
19 would like to see this place opened for all types of
20 off-highway recreation.

21 And I'd like to remind everybody of something.
22 I try to do this on a regular basis whenever I talk to
23 anyone in a public position or anything, is that the
24 definition of an off-highway vehicle user is someone
25 operating a motor vehicle on a nonsealed road. Once

1 you get off of pavement, you are now technically an
2 off-highway vehicle operator, and that includes a
3 person in a Subaru going to a trailhead to go for a
4 hike or wherever. That's the technical description.

5 So if someone wants to go -- like talking to the
6 gentleman that goes out and goes exploring for rocks,
7 if someone wants to drive through there and moisture is
8 good in May or June or say in November, and go out
9 there and go hunting for rocks, I think they should be
10 allowed and any type of off-highway use.

11 And I just think limiting it -- because we're
12 looking at it a little bit from a motorcyclist's
13 perspective, which I kind of do at times, but kind of
14 keep it a broad perspective.

15 I think there certainly is the science
16 available. I'm involved in situations where we have a
17 very detailed weather-based open-and-closure plan on a
18 private riding area, and I'd like to see something a
19 little more specific than just this vague timeframe
20 because they don't take weather into consideration.

21 COMMISSIONER PATROVSKY: One thing I would like
22 to see would be more comprehensive soil testing, like
23 what Ted was talking about, both wet and dry
24 conditions, and find out just how much dust is being
25 kicked up and what kinds of treatments or road overlays

1 could be put in to knock it down and reduce whatever
2 hazard is out there. And I think we need more data
3 than we've gotten so far.

4 COMMISSIONER MURPHY: If I can add one thing, as
5 far as the content of letter, would we be in agreement
6 that one of the things that we would request is that by
7 using the mitigation methods that were suggested by the
8 State and were, I would assume, substantiated by the
9 Commission, with those measures put in place, that we
10 would be able to have some success in mitigating the
11 asbestos exposure like capping the road, some trail
12 deviations as far as taking certain routes out and
13 putting in other routes to try to keep dust to a
14 minimum. That following the mitigation measures
15 suggested by the State, that we should be able to
16 recreate there on a seasonal basis with wet soil
17 conditions.

18 I'm not sure that it would be feasible for the
19 BLM to be able to take soil samples and open or close
20 depending on moisture content in the ground. I would
21 think that would just be --

22 COMMISSIONER CABRAL: Actually, I'm familiar
23 with a place, it's a smaller piece of property. It's a
24 1500-acre private ranch. We've contracted with a
25 company. We have a very specific use permit. Our use

1 permit is that we can't have too much -- we can't ride
2 in too wet of conditions. There is a
3 federally-protected creek that runs through it. Also
4 on this property is a SuperFund cleanup site, a mercury
5 mine. So we're dealing with similar situations.

6 So what we come up with, there is a firm up in
7 the Santa Rosa and Sonoma Counties called Prunuske
8 Chatham, and they had an engineer there that devised a
9 way where we use a matrix that's based upon how much
10 accumulative rainfall that we've had, how much rain
11 comes in in each event, how many days we need to be
12 closed afterwards to be able to reopen again without
13 taking soil samples.

14 So that data exists, and I'm familiar with it
15 where you can do it in reverse. Right now you can go
16 into most riding areas, and when it rains too much,
17 they close it. So it's basically a reversal of the
18 same thing that's already happening in most riding
19 areas. I think it's feasible, possible. All we need
20 to do is have a little more comprehensive science work
21 done previously, you know, if they just -- even if
22 maybe they really decided to reopen this and came to us
23 with a grant request to do the proper studies they need
24 to do, I mean there's definitely a way to make this
25 happen. I've had experience with it.

1 COMMISSIONER MURPHY: Okay. I would agree with
2 that entirely, but I need to know a little bit of
3 direction as far as how much is the horse out of the
4 barn at this point. Is the BLM realistically going to
5 come back and revisit these or are they set in what
6 they're doing and going to do maybe what they want to
7 do?

8 So in the letter are we able to suggest or do we
9 want to suggest alternatives or do we need to stay
10 within the confines of what we've commented on before?

11 CHAIR SLAVIK: I don't think we can suggest new
12 alternatives at this point.

13 What I'd like to see in the letter, and I agree
14 with your -- I want to move up what I would consider a
15 forward in the letter, and the forward taking into
16 account the passion that the California residents have
17 for Clear Creek or CCMA.

18 Because I think we're talking to a different
19 constituency in Washington than we did when the last
20 go-around went. Is that not true; people who are going
21 to be reviewing this letter are not the same people
22 that reviewed in the past?

23 OHV STAFF CANFIELD: That's correct.

24 CHAIR SLAVIK: So we could get some traction by
25 taking a little bit of different tack. And as far as

1 referencing points from the previous letter, from
2 Eric Lueder's letter, I don't think we need to do that.
3 He's going to have his hands full. I think we can
4 reference Eric Lueder's letter in one line. We don't
5 have to make points of that. We make a point of it but
6 without writing it in the body of the letter.

7 OHMVR STAFF CANFIELD: The BLM provides a
8 checklist of items required for a protest. As I would
9 be approaching drafting this document, I would, number
10 one, make sure that the contents of the document
11 addressed those checklist items.

12 CHAIR SLAVIK: And I would do that, Dan, by
13 referencing or citing that specific paragraph, and then
14 underneath that do your rebuttal. So the first one
15 that I wrote down here, I couldn't write down fast
16 enough on all of them, was how would the protest party
17 adversely be affected, something along those lines.
18 That's one of the first items.

19 OHMVR STAFF CANFIELD: Let me read it directly.
20 You're pretty darn close there, Paul.

21 The checklist item indicates the protesting
22 party to indicate their interest in filing this
23 protest, i.e., how will you be adversely affected by
24 the approval or amendment of this plan.

25 CHAIR SLAVIK: Okay. If I was in the

1 advertising world, I think we could hit that really
2 hard. That's where I would put the forward. So you
3 reference that directive, and then underneath that --
4 and I would include pictures of families. I would
5 include, you know, what a trail looks like. We're
6 talking people who may not have any clue at all what is
7 going on here in the middle of the mountains in
8 California. Am I making any kind of sense here with
9 the Commission?

10 COMMISSIONER MURPHY: I like all of that.

11 COMMISSIONER CABRAL: Yes.

12 COMMISSIONER KERR: We have an investment.

13 CHAIR SLAVIK: We have an investment. This is
14 how much money we've invested. The Commissioners have
15 come together from all over California to discuss this
16 issue. We've called a special meeting to discuss this
17 issue. It cost X amount of dollars to bring folks in
18 here. I'd like to see passion in it.

19 COMMISSIONER KERR: The issue being protested is
20 the adoption of the preferred alternative.

21 CHAIR SLAVIK: First of all, I think the BLM has
22 jumped to conclusions based on the EPA study that they
23 should close this area. I don't think we should dance
24 around that issue.

25 (Audience applause.)

1 COMMISSIONER KERR: I'm protesting the preferred
2 alternative.

3 CHAIR SLAVIK: All of them?

4 COMMISSIONER KERR: Isn't the preferred
5 alternative the real issue here?

6 COMMISSIONER CABRAL: The preferred is to close
7 the place, so we are certainly protesting that.

8 COMMISSIONER KERR: We're taking issue with
9 that.

10 CHAIR SLAVIK: Do we want to address a specific
11 alternative that the BLM has already?

12 COMMISSIONER CABRAL: Actually, I think at this
13 point you're looking at, you know, Rick Cooper's own
14 words on his letter about -- I'll read it:

15 "Decisions about public use in
16 the area would be designed to reduce
17 risk to public health based on best
18 available information. The BLM will
19 continue to consider new and credible
20 information related to human health
21 risks for visitors to the CCMA."

22 So he's saying that they will look at new and
23 credible ways to do that.

24 COMMISSIONER MURPHY: We've already done that.

25 COMMISSIONER CABRAL: I know that, but where

1 Paul is going with this, they need to relook at this.
2 We don't support the original -- their current
3 decision, and they need to look for new ways to do this
4 to a new management plan.

5 COMMISSIONER MURPHY: And we feel that they've
6 ignored that other data that we provide.

7 COMMISSIONER KERR: That there are alternatives
8 in this that you would probably be happy with, so we
9 don't have to start from scratch here.

10 CHAIR SLAVIK: But they have already selected
11 their preferred alternative. So I don't think we're
12 going to be able to make them change their mind unless
13 we do stuff like threaten lawsuits.

14 COMMISSIONER CABRAL: They have six other
15 alternatives on their sheet of paper, and if they say
16 they're open to looking at other alternatives --

17 CHAIR SLAVIK: Based on science.

18 COMMISSIONER CABRAL: -- the other alternatives
19 they have put forward.

20 COMMISSIONER MURPHY: We can reference that in
21 the part of the letter that has to do with our -- the
22 Commission's original letter and how the BLM that we
23 feel has failed to address the new data.

24 CHAIR SLAVIK: I think, Dan, you've captured
25 that part, right?

1 OHV STAFF CANFIELD: Yes, good point. I think
2 that goes to the final item, which is -- if you'll
3 scroll down on the screen -- that a concise statement
4 explaining why the State Director's decision is
5 believed to be wrong, I think all of that conversation
6 can be woven into that response with the science.

7 COMMISSIONER KERR: The wrong is they didn't
8 adequately consider the possibility of wet weather.

9 CHAIR SLAVIK: Does the term "arbitrary and
10 capricious" fit into this?

11 CHIEF JENKINS: Chair Slavik, if I might, I
12 think -- I'm trying to listen to all of your various
13 comments and thoughts and trying to figure out how we
14 can boil that down to something that makes sense in the
15 letter. Let me give a shot at what I think I'm
16 hearing. Tell me if I'm getting this correctly.

17 There were a number of things that were
18 discussed at the Commission hearing that we had in
19 Hollister about the Clear Creek issue. Many of
20 those -- or a number of those suggestions that were
21 discussed by the Commission and offered as potential
22 new ways to look at this are included in the range of
23 alternatives that are in this proposed document.

24 There are some suggestions that were brought up
25 at the time that are not in the proposed document.

1 What I'm hearing you guys saying is, yes, they've
2 captured some of what you said; yes, they made a
3 decision that you hoped they would make based on some
4 of the suggestions that you had proposed, that you had
5 discussed, offered to them. It sounds like what I'm
6 hearing from you is that you're concerned they didn't
7 fully consider all of the other possibilities. Like,
8 we would have to triple check, but I don't know that
9 monitoring the soil moisture was included as part of
10 the discussion of this document.

11 So we could in our letter go back and review the
12 list of suggestions you had made in the transcripts and
13 point out, as an example, the transcript would be the
14 full record, but there are things that were discussed
15 that you feel weren't fully addressed, that we could
16 then include that as one of the thoughts in your
17 letter.

18 COMMISSIONER MURPHY: Is there a necessity to
19 include all of those items to make sure that they're
20 still on the table for the next step in this? Or if we
21 leave those items out, are they going to be off the
22 table in the next level similar to the way the BLM...

23 CHIEF JENKINS: And I'll check with Kathryn, our
24 legal counsel, but if we reference that meeting and the
25 transcripts, the public collection is out there in the

1 public. It's all documented. If we reference that
2 collectively, I don't think we can go through and
3 reiterate point by point. Might bring out a couple of
4 points to illustrate what you're getting at, but just
5 referencing the whole meeting, it already is part of
6 the record. We don't necessarily have to mention it
7 again. It is part of the record. It's what your
8 comments would be based upon, but you don't have to
9 point by point reiterate everything.

10 CHAIR SLAVIK: Question: Maybe Dan can answer
11 this and possibly the BLM.

12 If this protest is not successful, BLM basically
13 gets its preferred alternative, what's our recourse?

14 OHMVR STAFF CANFIELD: That's a very good
15 question, and I spoke with the BLM representative this
16 morning, and they had some great insight on that topic.

17 At this stage in the process, the BLM has
18 released their proposed Resource Management Plan, and
19 the Commission has the opportunity to file a protest.
20 The protest needs to be directed towards the land-use
21 decisions contained within that document, and there are
22 actually sections that are called out, land-use
23 decision, as opposed to implementation decision.

24 The BLM representatives indicated that the way
25 the process works at this step is the protest looks at

1 the land-use decision part. Assuming the protests are
2 all processed and the BLM moves ahead with their Record
3 of Decision on this Resource Management Plan, there is
4 then -- and I believe the term is an appeal process,
5 that folks can appeal the implementation elements of
6 the document. So that's kind of if -- I did my best to
7 describe that scenario of kind of where we are in the
8 process.

9 CHAIR SLAVIK: So to reiterate that, so the five
10 days a year, no children, UTVs and station wagons only,
11 and ATVs I should add, so those very finite parameters
12 that somebody could be on that land, that's their final
13 decision. That's the preferred alternative.

14 Now, all we can do after that, we have to live
15 within that, and then just say -- well, where can we go
16 from there?

17 OHV STAFF CANFIELD: I think I've exhausted my
18 knowledge on that subject.

19 BLM ELIZABETH MEYERS-SHIELDS: I'm Elizabeth
20 Meyer-Shields.

21 And you got it pretty close. So we have the
22 proposed RMP and EIS contain two types of decisions.
23 They contain land-use planning decisions, and they
24 contain implementation decisions. And the BLM has two
25 different administrative remedies for those two types

1 of decisions. So the protest period, which is what you
2 all are discussing today, is on land-use planning
3 decisions, and those are specifically called out in the
4 EIS.

5 Once the protests are resolved, we will sign our
6 Record of Decision -- depending on, of course, the
7 outcome of those protests. But once that process is
8 completed, we'll sign a Record of Decision reflecting
9 the outcome of that process, and then we have an
10 appeals process, and that's an opportunity to appeal
11 the implementation-level decisions that are in the
12 document. And so that process takes place after the
13 Record of Decision is signed. And that's to the
14 Interior Board of Land Appeals, the IBLA, and that's an
15 administrative court or administrative judges that are
16 within the Department of the Interior.

17 CHAIR SLAVIK: So can you give us some examples
18 of the difference between land-use decisions and
19 implementation decisions?

20 BLM STAFF MEYERS: Yes. So they're called out
21 in the document, in Section 2.5 of the document, but
22 things like travel management route designations are
23 implementation decisions. So decisions on individual
24 routes are generally implementation-level decisions.

25 Decisions on whether an area is open, limited,

1 or closed to vehicular use is a land-use planning
2 decisions. And as far as specifics, again, those are
3 in the document itself.

4 CHAIR SLAVIK: What about the milage, I see that
5 under certain categories, there are certain mileages.
6 Would that be a land-use decision or an implementation
7 decision?

8 BLM STAFF MEYERS: I think that at this point
9 the document needs to speak for itself, so I would look
10 to how it's labeled within Section 2.5, if that's
11 labeled as a planning decision or an implementation
12 decision.

13 CHAIR SLAVIK: Any other questions while she's
14 up? Dan, do you need any more direction?

15 OHV STAFF CANFIELD: I think I have a lot of
16 content, assuming the Commission moves towards filing
17 this protest. I would be cautious as staff works with
18 the Commission in developing the protest to make sure
19 that we are identifying those land-use decisions as we
20 just learned. That's very valuable information. Thank
21 you very much from the BLM on that. I would also
22 approach it from that critical checklist to make sure
23 that we're hitting all of those critical items.

24 Some of the other great content that's been
25 discussed perhaps can be additions. You know, we make

1 sure that the protest contains all of the required
2 elements called out, you know, bolded, capitals,
3 whatever we need to do to make sure it's clear. But
4 perhaps some of this other great information that the
5 Commission has discussed and heard from the public
6 could be additional content. That would be something
7 that maybe the Commission could give direction on how
8 they feel about the additional information, or should
9 the protest letter stick just to the critical items.
10 That one might be helpful for me and my associates as
11 we work through this process.

12 COMMISSIONER CABRAL: The last item you noted on
13 the first time you went through was a precise statement
14 why the decision is wrong, okay? First off, it's
15 against the will of the people. That's obvious. Is
16 anyone in here, in this room come up and said they
17 would like to see the Clear Creek Management Area
18 closed off to off-highway vehicle use? No. So
19 obviously the will of the people in the meetings that
20 I've attended and the position has been that they would
21 like to have it opened. So that's one area.

22 But the other thing would be is just the science
23 is -- it's a -- like Will was suggesting, it's a very
24 broad document and study that's used to make a very
25 specific decision. So I think that's a problem myself.

1 And then anyone else have anything else they
2 want to add?

3 COMMISSIONER MURPHY: That last point you
4 mentioned is referenced in the State's documents under
5 the former Deputy Director's in the scope of the study
6 that was done and how it is being used to make such a
7 focused decision. So that I would imagine would be
8 covered in the State Park. I think we can reference
9 that in ours, as well.

10 COMMISSIONER CABRAL: Aren't we supposed to be
11 referencing items that were only specifically noted
12 before?

13 COMMISSIONER MURPHY: I think we're focusing on
14 our protestation letter.

15 COMMISSIONER KERR: A lot of input being given
16 to Dan here. I would like to focus on the interest in
17 filing this protest for a minute.

18 So we have an interest as a commission, and
19 we're charged with representing the entire user
20 community. So your comments about reduced recreational
21 opportunities for the families, so that, I think, would
22 be part of the document.

23 You mentioned the public doesn't want it closed.
24 Well, we're representing the user community's interests
25 as a commission. That's our charge, and so we should

1 reference the fact that this will adversely affect our
2 user community, and that's an interest.

3 And the second interest is that we have made
4 substantial investment in the property as a Commission
5 and so therefore we have an interest in seeing that
6 investment utilized.

7 As far as why it's wrong, I think that's where
8 maybe the science goes in, you know, the suggestions of
9 potentially having it opened when the soil conditions
10 were appropriate. In other words, the seasonal
11 closures was not part of the preferred alternative,
12 that's a reason why we think it's wrong.

13 And then you've got a lot of other comments that
14 I don't want to try and address, but those are a couple
15 of things.

16 OHMVR STAFF CANFIELD: I guess as I would
17 approach -- as staff approaches this task, we take the
18 information that we've heard today and plug it into
19 these spots, into this checklist, and then start
20 refining down from there, and that would be my
21 approach.

22 CHAIR SLAVIK: Deputy Director Conlin, do you
23 have any input into this?

24 DEPUTY DIR. CONLIN: Yes, just one quick comment
25 on what was just stated. Don't limit it to the user

1 community. You represent the State of California, the
2 taxpayers, because all taxpayers pay into the fund in
3 one way or another. It's a proportional tax.
4 Everybody is paying in.

5 When you were appointed by the Legislature, you
6 were appointed by the Governor, you represent the
7 opinions of the State of California. So I would not
8 limit this because as somebody mentioned here,
9 off-roading by a rock hound who wants to go driving
10 into this area is being impacted as well by this, in
11 addition to the guy who's on the traditional off-road
12 vehicle and ATV or something. So I would use that
13 phraseology in there.

14 I'm hearing from the lawyer side -- it's why
15 we've got lawyers in here, to kind of nip at us and
16 tell us what we really need to focus on in responding
17 to this.

18 We need to keep a lot of our comments associated
19 with the science and our debate with the fact that they
20 did not do due diligence in studying this, the soil
21 samples that were mentioned and things of that nature,
22 and that because of that they did not correctly
23 consider the alternatives.

24 The only thing I would leave you with, though,
25 we mentioned several times recommending one of the

1 other alternatives. So I think, Paul, for your
2 benefit, you may just want to get a quorum amongst the
3 Commission to see if there is one of these alternatives
4 you would like to recommend. It may not stay. You may
5 come at the last minute and say I don't want to
6 recommend anything. But before we shut this meeting
7 down, is there one of these alternatives suitable we
8 could go forth with that?

9 CHAIR SLAVIK: Is everybody familiar enough with
10 the alternatives to make a recommendation to judge the
11 differences between them? You know the two extremes
12 are probably not going to fly.

13 Besides that, I want to appoint a subcommittee
14 on this, too, so.

15 COMMISSIONER CABRAL: I just really want to
16 focus on the dates and the time frames, not so much as
17 who is going to use them, but actually the dates
18 because I think that's the most important. Because
19 traditionally October 15th through June 1st is your wet
20 season potential in California, but it can fluctuate
21 wildly.

22 Now, December 1st through April 15th, that's a
23 pretty narrow time frame. So when you start getting
24 into, you know, the Option B, C, and then D, even
25 brings it down into January 1st through December --

1 COMMISSIONER KERR: Other types of uses.

2 COMMISSIONER CABRAL: So the type is a little
3 small, having problems reading it.

4 Basically of A, B, and C, those are the ones I
5 want to focus on, just the actual physical time frame
6 is my biggest concern. I think based upon our weather
7 patterns in California that I would personally support
8 the largest time frame with the idea that that could be
9 pared down through technology.

10 COMMISSIONER MURPHY: I would agree with that
11 statement. So maybe it sounds like what you're saying
12 is Option B with the exception of the seasonal use
13 corresponding with Option A from October 15th to
14 June 1st.

15 COMMISSIONER KERR: I think our users can live
16 with Option B.

17 CHIEF JENKINS: I can offer a thought. Also in
18 the plan is a section called, "Adaptive Management."
19 It's Section ES 6, BLM's RMP Adaptive Management
20 Strategy, which talks about moving forward.

21 So after this decision is made, is behind
22 everybody, and moving forward, they list three criteria
23 that could result in a change in that decision -- or
24 adaptive change to that decision, including new studies
25 that show reduced levels, et cetera. So it's a pretty

1 reasonable thing to put in there if we get better
2 information later.

3 I only offer that in relation to the comments
4 you're just making. If you were to put into the letter
5 that we don't like any of your options because the
6 dates are wrong, versus if you were to say Option B,
7 for instance, we could live with that knowing that
8 through the adaptive management approach you might be
9 able to move those windows wider if you could show
10 science that shows it's safe for a wider window than
11 that.

12 My point being that if you were to recommend or
13 to support one of the alternatives, it doesn't mean
14 that if they went with Option B, story over or for that
15 matter if they go with the preferred alternative, story
16 over. There is this adaptive management kind of crack
17 in the door that's been left open that through further
18 science we can continue to evaluate this moving
19 forward. I just offer that for thought.

20 CHAIR SLAVIK: Do we want to bring up the child
21 situation?

22 COMMISSIONER KERR: That's the difference
23 between B and C. That's a major one.

24 COMMISSIONER MURPHY: I want to comment on that.
25 All of us here want to protect our children. I have

1 children. I know many people here have children. We
2 want the very best for our kids. We want to keep them
3 safe.

4 But having said that, I was one of the people
5 that when I was in high school, I wasn't 18-years old
6 yet, and my friends and I Friday afternoon would get
7 together and say let's go to Clear Creek, and that's
8 what we would do. We would load up trucks, and we'd go
9 down there, have a bonfire, have a good time, not get
10 into trouble. We're not in town.

11 I think it's important that young people should
12 be allowed to go there. This is our natural resources.
13 That's what they're there for. They can be used in a
14 way that is manageable and sustainable and still
15 protect the environment, still protect the natural
16 beauty. I think it's an option that we should
17 consider.

18 CHAIR SLAVIK: For Dan then, and I totally agree
19 with that, because I'm fully --

20 COMMISSIONER KERR: Let's not vote on different
21 options.

22 CHAIR SLAVIK: Let me follow this thing before I
23 forget it, which I already did.

24 So the social benefits of having children
25 recreate with their family far outweighs this nebulous

1 risk of asbestos carcinogenic, blah, blah. (Audience
2 applause.)

3 Really, when it comes down to it, life is
4 important. And the study that we commissioned, they're
5 equating this to one cigarette every year as risk. If
6 the parents had to leave them home because they went to
7 recreate because the kid wasn't 18, he could be getting
8 into trouble somewhere else. I think those are the
9 kinds of things that we somehow ought to let people
10 understand. That's why we do this.

11 COMMISSIONER KERR: Very passionate argument for
12 Option B, and I support you on that. If you want to
13 articulate that in the letter, that's fine. We need to
14 select one of these options.

15 COMMISSIONER PATROVSKY: I would like to make a
16 motion for Option B.

17 COMMISSIONER MURPHY: I'll second the motion.

18 CHAIR SLAVIK: All in favor?

19 (Commissioners simultaneously voted.)

20 CHAIR SLAVIK: Any opposed?

21 COMMISSIONER CABRAL: Nay.

22 CHAIR SLAVIK: Motion passes. Option B it is.

23 COMMISSIONER KERR: If I could ask the
24 Commissioner for reconsideration? A unanimous decision
25 of the Commission is always a good thing, and your

1 dissent may be misinterpreted in a way that you might
2 not like.

3 COMMISSIONER CABRAL: Okay. I would reconsider
4 my decision if the record shows that my main concern
5 was the date schedule that's on the Option B I believe
6 is unrealistic with the weather patterns.

7 COMMISSIONER KERR: So maybe the letter even
8 might say that the Commission hopes that this adaptive
9 management plan will allow actually for the Division to
10 engage with the BLM to study soil moisture, ways of
11 measuring soil moisture, and possible inclusions in the
12 adaptive management process because. I think that's
13 what I'm sort of hearing from the Chief.

14 COMMISSIONER CABRAL: I would support that
15 100 percent.

16 CHAIR SLAVIK: So going to take another vote on
17 this. All in favor of Option B?

18 (Commissioners simultaneously voted.)

19 CHAIR SLAVIK: Any opposed? Having none
20 opposed, Option B passes.

21 At this point I'd like to appoint a subcommittee
22 to work with Dan on this. And Commissioners Murphy and
23 Cabral, would you be interested in participating on
24 that?

25 COMMISSIONER CABRAL: Yes, I would.

1 CHAIR SLAVIK: Okay. So we have a subcommittee
2 that will work with Dan, and you guys are going to work
3 through the weekend.

4 COMMISSIONER MURPHY: Can I have the option to
5 be able to confer with Commissioner Kerr?

6 COMMISSIONER KERR: I don't think so.

7 COMMISSIONER MURPHY: Can he be included in the
8 committee?

9 COMMISSIONER KERR: I've already made my points
10 known.

11 CHAIR SLAVIK: By law we can only have two
12 people on a committee.

13 COMMISSIONER KERR: Unfortunately.

14 CHAIR SLAVIK: Is the Chair an ex-officio member
15 of the committee? No. I thought we talked about that
16 before.

17 COMMISSIONER KERR: Who is going to sign this
18 letter?

19 CHAIR SLAVIK: So I need to see the letter.

20 DEPUTY DIR. CONLIN: I think you answered your
21 own question. You can't confer, but you can sign it.
22 You get the final sign on it. You can't confer in the
23 interim.

24 CHAIR SLAVIK: I can't confer, but I can review
25 the letter.

1 COUNSEL TOBIAS: You have two choices under the
2 law. It's Bagley-Keene that deals with this. The way
3 the statute reads, anything that's a majority would
4 have to be a noticed meeting. So we interpret that --
5 and the statute says that that's three or more. So
6 when you have a committee of three or four, it has to
7 be a public meeting whenever you talk, exchange any
8 information. Really, there is no give to that part.

9 However, the law also allows you to appoint an
10 ad hoc committee of two people, and then those two
11 people can talk. The reasoning behind that is that you
12 are not a majority of the board, so it's okay for you
13 to talk, present something to the rest of the board for
14 them to consider in a public meeting.

15 So when you come up with that letter, it can be
16 sent to the Chair to be signed, but the Chair is not
17 going to be able to discuss that with you or to
18 circulate it among the rest of the members. I mean he
19 can send it out, but he can't --

20 CHAIR SLAVIK: Can I make any changes in the
21 letter?

22 COUNSEL TOBIAS: You can, but you can't talk to
23 anybody about it.

24 CHAIR SLAVIK: But I can talk to Dan?

25 COUNSEL TOBIAS: You can talk to Dan.

1 COMMISSIONER KERR: It's like a serial meeting.

2 COUNSEL TOBIAS: Well, and that's exactly what
3 the law is trying to prevent, a serial meeting.

4 CHAIR SLAVIK: I want to make sure it's clear.

5 COUNSEL TOBIAS: When you have one of these
6 ad hoc committees, what the statute intends you to
7 do --

8 COMMISSIONER KERR: Either sign it on behalf of
9 the committee or you can say, that's not what we agreed
10 to, I can't sign it. That's about it.

11 DEPUTY DIR. CONLIN: If he makes that
12 determination, Kathryn, and says this is not in
13 accordance with what I understood we agreed to, can he
14 send it back to the subcommittee?

15 COUNSEL TOBIAS: Well, not until he has a public
16 meeting to be able to do that, so.

17 CHAIR SLAVIK: I think we've vetted this. We've
18 beat this horse to death here.

19 Do you need anything else from us?

20 OHMVR STAFF CANFIELD: No, sir.

21 CHAIR SLAVIK: We all know what we are in for
22 here. This has to be done by midnight Monday night,
23 postmarked, but you can e-mail it Monday.

24 OHMVR STAFF CANFIELD: The requirement of the
25 regulation does allow an e-mail transmittal on the due

1 date, followed by a hard copy that has to also be
2 postmarked by the due date. I think our limiting
3 factor is the latest mail drop in the Sacramento
4 regional area on Monday.

5 CHAIR SLAVIK: So, Chief Jenkins, are we all
6 staffed up to do this?

7 CHIEF JENKINS: Yes, we're prepared to staff you
8 on this one. We've seen this one coming since we
9 arranged the meeting.

10 CHAIR SLAVIK: Any other questions?

11 All right. We will move to public comment on
12 non-agenda items.

13 AGENDA ITEM - PUBLIC COMMENT ON NON-AGENDA ITEMS

14 JENNIFER SCHRECK: Jennifer Schreck. Again, I'm
15 representing myself, my family, numerous friends, and
16 other motorcycle riders.

17 As far as the bill HR 1776, again, that appears
18 to be very encouraging. I'm a firm believer that we
19 can both protect and preserve the environment and enjoy
20 it through motorized recreation responsibly all at the
21 same time.

22 I saw that the bill requires within two years
23 there be a management plan with consultation of various
24 agencies and the public, and I ask that you please help
25 keep the public in the loop with this so we can come to

1 meetings and can participate in that discussion.

2 And then also just quickly going back to the
3 Clear Creek, the land-use designations under the 2.3.2
4 section of that document prohibiting the camping
5 outside of Jade Mill, I want to protest against that.

6 And also I saw the -- I don't know if it's an
7 expansion of hunting land-use designation in certain
8 areas there also, just food for thought. I realize I
9 might be stirring the pot a little bit, but I want to
10 speak for some other people I know. I've heard those
11 comments over the years going back to 2008 when this
12 all started, a lot of public opinion that Rick Cooper
13 and the Hollister BLM may have just other ulterior
14 motives for wanting to close it to motorized recreation
15 specifically, like motorcycles, et cetera, and public
16 opinion that he as a hunter wants his own private
17 playground. And seeing that hunting is going to be
18 expanded with Clear Creek is disappointing to a lot of
19 people in that region. So I just wanted to get that on
20 the record.

21 But as far as HR 1776, if we can please do
22 whatever we can to help get that through and
23 implemented in an efficient manner, we would appreciate
24 it. Thank you.

25 BRUCE BRAZIL: Bruce Brazil, speaking as an

1 individual.

2 As we've already heard the Commission is limited
3 to having two people on their subcommittees, but that's
4 two commissioners. I'm just wondering if they would
5 entertain the thought of having the public also assist
6 them, not necessarily for this project but in general.

7 In the past there have been some of the projects
8 that have been put upon the subcommittee that were
9 rather extensive, and there are members of the public
10 that may want to volunteer to assist. So I would like
11 to just put that as a potential asset for you guys to
12 work with. Thank you.

13 COMMISSIONER CABRAL: Are you kind of thinking
14 about -- would you be interested in it, being like a
15 stakeholders group or something along those lines?

16 BRUCE BRAZIL: The subcommittees usually get a
17 particular project, like the letter they're going to do
18 today or have to write a letter to the State or
19 whatever. Some of these require a bit of research,
20 additional research and such. And that's more of what
21 I was thinking, as a reference material or an
22 assistant-type thing. You know, maybe the Division,
23 I'm sure they've got their hands full with their
24 day-to-day stuff, and to have someone maybe from the
25 public that is passionate about a particular project or

1 item that the Commission has for the subcommittee, I
2 think that may be a positive thing.

3 CHAIR SLAVIK: Just to answer your question, I
4 think there is nothing to preclude a commissioner from
5 reaching out to the public for information.

6 BRUCE BRAZIL: I'm just saying I haven't seen it
7 done before, so just throwing it out as a suggestion.

8 CHAIR SLAVIK: It's been done, Bruce.

9 COMMISSIONER MURPHY: Make sure you provide your
10 contact information today, Mr. Brazil, if that's indeed
11 what you're stating, because I could use all of the
12 help you can offer.

13 NICK HARIS: Nick Haris, American Motorcyclist
14 Association on a non-agenda item topic.

15 I had a meeting with a number of folks with the
16 Governor's staff, members of the Transportation
17 Committee, and some other budget finance folks on
18 Wednesday, and we were officially told that the
19 Governor has decided to opt out of RTP.

20 We are not happy to hear that. I want to bring
21 that to you guys and let you know. I have sent some
22 information both to Division as well as Chairman
23 Slavik. I guess it was something we knew was under
24 consideration, and it was something they confirmed.

25 So, please, as you're moving forward, think

1 about that and how that's going to affect us. We did
2 our best to explain to them in the limited amount of
3 time we had how important a lot of these grants are and
4 the role they play in some of the bigger picture
5 projects. And we were told basically that
6 non-motorized active transportation is the new priority
7 for the Administration, which means bike paths in
8 downtown San Jose. And even the NIPO representative
9 was a little bit put aback when they said, it doesn't
10 necessarily mean mountain bike trails in the Eldorado.

11 Like I say, a little disappointing to hear,
12 especially when you think about the federal RTP monies
13 are 100 percent raised from motorized recreation in
14 what we consider green sticker, red sticker vehicles.
15 It doesn't even include off-road use of trucks and
16 things. So taking the last two million that they
17 haven't gotten previously. Thank you.

18 DAVE PICKETT: Dave Pickett, District 36,
19 Motorcycle Sports Committee, a user group that
20 fluctuates between five and 10,000 members at any time,
21 Mr. Cabral.

22 A couple of things, one, the little Hoover
23 report that came out last month, very, very
24 disappointed. There is hardly a word about OHV in it,
25 which was disappointing. And a clear statement was

1 made: The State Parks system cannot be expected to run
2 with self-generated revenue alone. I disagree with
3 that. It's called the Off-Highway Motor Vehicle
4 Recreation Department.

5 Also, kudos for staff member Randy Caldera,
6 Carnegie SVRA. He has jumped in with both feet,
7 phenomenal communication skills with the user
8 community. Things are improving there, even the State
9 Park employees' attitudes have improved tremendously.
10 It's a pleasure.

11 But the flip side of that, we're still in the
12 middle of the Tesla acquisition to keep moving forward.
13 Appreciate it if you would keep that top, front, and
14 center. We've had that land for over 16 years now,
15 continuing to work on that.

16 As Nick stated, the RTP program, that's very,
17 very frustrating because a lot of folks don't know that
18 that's paid for by funds across the United States from
19 OHV. And the split is 30/30/40. Traditionally, the
20 State has taken 70 percent for non-motorized,
21 30 percent for motorized, and now we're going to have
22 zero.

23 Add that to the \$10 million that the legislature
24 started taking a couple of years ago off the top as a
25 take, \$16 million dollars shortage in the grants, this

1 is it very problematic. We can't move forward with
2 responsible recreation per the Division's mission
3 statement if we don't have funding to do so.

4 The Triennial Report that's due in January 2014,
5 within the context of that from Dan Canfield's report
6 at the December 1st, 2012 meeting, there is a bullet
7 point in there that says the Commission to report on
8 conflict resolution relative to areas and trails funded
9 by OHV Trust Fund. That may be an opportunity to put
10 forth to the legislature the seriousness of our
11 partners on the federal side in situations such as the
12 Clear Creek Recreation Management Area.

13 Thank you very much.

14 DAVE DUFFIN: Thank you, again, Dave Duffin
15 representing Carnegie Forever, Incorporated. And I
16 would like to -- I forgot to hand out these ten copies
17 that I brought in, but, anyway, this was pulled off --
18 thank you.

19 This was pulled off the East Bay Regional Park
20 District's new master plan that they're working on,
21 speaking of master plans. And Carnegie -- I should say
22 Tesla, they refer to the Alameda/Testa expansion
23 project, the official term. They refer to it as Tesla
24 Park. So not only do they want our land, but they are
25 renaming it in a way to satisfy their inclinations.

1 So, anyway, they still think of this property
2 that OHV has purchased as something that they could
3 possibly acquire by hook or by crook or by political
4 activities. I want you to be aware of that. They
5 still haven't removed it. We've asked them.

6 Then also their group, the Friends of Tesla,
7 I've joined that. So they are actually raising --
8 trying to raise \$25,000 right now to fight the new
9 master plan and use EIR for Carnegie.

10 Once again, we've been waiting for this thing to
11 happen for about 15 years, meeting with various
12 personnel from the State through all of those years.

13 And also, as Dave Pickett says, we particularly
14 appreciate the work that Randy Caldera, park boss, is
15 doing there right now. He's been about the best person
16 we've had down there in just about forever.

17 Thank you very much.

18 COMMISSIONER MURPHY: Sir, one question:

19 Do you know if your organization or any other
20 organization is taking up a similar collection to try
21 to protect what you have there?

22 DAVE DUFFIN: We will be. We're waiting to find
23 out what happens after the master plan is announced for
24 Carnegie. And then at that point, we realize that that
25 is the best time to generate some interest from our

1 subscribers. So we're just waiting for that to happen
2 rather than pestering people ahead of time. So we're
3 just waiting for the shoe to drop.

4 JOHN STEWART: Good morning, Commissioners,
5 John Stewart with California Association of 4-Wheel
6 Drive Clubs.

7 I'd like to take this opportunity to welcome the
8 new Deputy Director on board and look forward to many
9 productive years of working for protecting the OHV
10 program for the state.

11 The OHV program for the state is highly
12 dependent upon the gas tax funding, and we hope that we
13 can work out something where we protect the fund and
14 protect that cash flow from the users that come in and
15 have it be really the user-funded program that it was
16 meant to be.

17 The Grants Program is extremely important with
18 the federal partners in order to keep the trails and
19 areas open on the federal-managed lands, but equally
20 important is keeping the SVRAs in a good maintained
21 condition. And one of the programs that has been
22 started to maintain is the building up of obstacle
23 courses, challenge courses, and four-wheel drive
24 opportunities on the various SVRAs. These are
25 well-received, well-liked opportunities. And there are

1 several programs in the works right now just waiting
2 the final word to proceed, the final bit of paperwork.
3 They've been funded. We would like to see them move
4 forward as soon as possible.

5 And, again, I won't belabor the issue, but the
6 RTP program, the Recreational Trails Program, is a very
7 important component, has been an important component,
8 and, yes, that is user-generated funding that is now
9 being siphoned off into a non-motorized activity. And
10 it is distressing to see this happen. If there is
11 anything we can do, we would love to see it changed.

12 And speaking of change, somebody mentioned
13 stakeholders opportunities. It's about time to get
14 stakeholders back together to, in a sense, see that we
15 are working toward what goals that work for the program
16 and also to look forward that SB 742, and the program
17 is sunseting soon, and it's not too soon now to begin
18 planning for the new legislation to extend that program
19 and even make it a permanent program. Thank you.

20 SUPERVISOR JERRY MUENZER: Jerry Muenzer, County
21 Supervisor for San Jose County, District 4, which has
22 Clear Creek and Hollister Hills in my district. I
23 apologize for being late. I got my times mixed up, and
24 I came up to address the protest letter on BLM, if I
25 could indulge the Commission. I have a few words to

1 speak if that's okay? Thank you.

2 Thank you for this opportunity to speak today.
3 I am here to inform the Commission that at our next
4 Board of Supervisor meeting I will be submitting a
5 resolution to our board to endorse a letter of protest
6 to the BLM final EIS based on their claim or title to
7 the roads in Clear Creek area. It has been the
8 County's position that the roads belong to the County
9 even though we do not maintain them at this time.

10 I would respectfully ask that you submit the
11 protest letter to the BLM on the CCMA PRMS FEIS based
12 on your own studies of asbestos health issues and on
13 the fact that OHMVR programs awarded the BLM nearly
14 \$7 million in grants for maintenance and improvements
15 for OHV use in the CCMA.

16 I would also ask the Commission to direct staff
17 to draft a letter of support for HR 1776, the Clear
18 Creek National Recreation Area Conservation Act,
19 introduced by U.S. Representatives Sam Farr, David
20 Valadao, and Jeff Denham. HR 1776 will once again open
21 up the Clear Creek area to OHV in a responsible manner.

22 Once again, I want to thank you for the
23 opportunity to speak to you, especially since I was
24 late, and invite you back to San Benito County at any
25 time. And I believe we still owe you a tour of

1 Hollister Hills. Thank you.

2 CHAIR SLAVIK: Jerry, before you go, you
3 actually mentioned two things. You said the County's
4 RS 2477 assertion that the road going through the
5 middle of the BLM land; you're claiming that, right?

6 SUPERVISOR JERRY MUENZER: We are still claiming
7 that that is a county road.

8 CHAIR SLAVIK: So that's a separate issue?

9 SUPERVISOR JERRY MUENZER: I believe that is
10 addressed in the EIS.

11 CHAIR SLAVIK: It is addressed. But are you
12 sending out a separate letter?

13 SUPERVISOR JERRY MUENZER: Yes, we are.

14 COMMISSIONER KERR: By Monday at 5:00?

15 SUPERVISOR JERRY MUENZER: Yes, we are. The
16 county counsel is actually working on that as we speak.

17 COMMISSIONER MURPHY: One more question: Am I
18 correct your next board of supervisors' meeting is on
19 May 7th; is that true?

20 SUPERVISOR JERRY MUENZER: Yes, but we are
21 submitting -- we're having the letter in there on the
22 premise that we will approve it on May 7th.

23 COMMISSIONER MURPHY: Thanks.

24 CHAIR SLAVIK: Okay. Thank you.

25 TOM TAMMONE: Good afternoon, Tom Tammone

1 speaking as an individual.

2 I'd like again to ask you go a step further and
3 entertain a thought of possibly even taking over or
4 acquiring certain portions of Clear Creek that are
5 workable if it comes to that and all else fails and the
6 BLM is just not willing to manage the area and let us
7 use it. I can't help forgetting that there's still --
8 I forgot the number 130, 140 -- what's \$10 million
9 that's been taken out of the fund that was supposed to
10 be used for acquisitions. Just want to remind you
11 guys, I haven't forgotten about that number, whatever
12 it is, it's well over \$100 million. And I would like
13 to see it used for something. So, worse come to worse,
14 I'd like to see it used for that.

15 As far as HR 1776, I like the number, but I
16 don't see much in it that really reminds me of the
17 unanimous declaration at that time of 15 states of the
18 United States of America, the Declaration of
19 Independence that gave us the inalienable right to
20 pursue life, liberty, and property. I consider that
21 probably the highest document in this country, unlike
22 the Constitution, I don't think there is any process to
23 alter or change it short of disbanding it of the United
24 States altogether.

25 I would like to see the default position changed

1 or some wording to that effect that we can take beyond
2 opening Clear Creek. We're all here trying to dig up
3 our own personal medical records, everything we can to
4 dispute that. It shouldn't be ours to prove. The
5 Declaration of Independence gives us the inalienable
6 right to pursue life, liberty, and happiness. Since
7 that's the number of the bill, 1776, that basically the
8 country was essentially founded.

9 I would like to see some assertion that the
10 burden of proof be put on them to deny us of these
11 rights, other than us sitting here trying to disprove a
12 theory or an assumption that there is a problem. Thank
13 you. (Audience applause.)

14 STEVE KORETOFF: Thank you for the second
15 opportunity to speak. Steve Koretoff, and this time
16 I'll speak on behalf of the Friends of Clear Creek
17 Management Area.

18 And the topic is slightly outside of the scope
19 of the FEIS, that being that the closure, the Clear
20 Creek temporary closure due to health. Specifically if
21 you look at that map, it's the ACEC, or the area inside
22 of that red line, the closure affects only that inside.
23 There's a substantial amount of property that's
24 actually outside of the ACEC, and there's a pretty
25 significant trail system, as well.

1 I would ask the Commission and the Division, if
2 it's something that they can pursue, to encourage BLM
3 to make that opportunity available. I have talked to
4 the Hollister Field Office, and there's been talk about
5 accessing some trails through the Condon Peak access,
6 which is well outside of the ACEC. There's been a lot
7 of money that's been spent on that. And the vault
8 toilets that were originally inside of the Clear Creek
9 Management Area have been taken out and put into the
10 Condon Peak access and camping areas.

11 And I think that would be a perfect opportunity
12 outside of the process that we're going through right
13 now to provide some quick and immediate recreation
14 opportunities that's not currently being offered.
15 Thank you for this time, and thank you, everybody.

16 CHAIR SLAVIK: Steve, I have a question.

17 So you probably have a good sense of the history
18 of that place. The trails that are in there now, are
19 they user-created trails? I've ridden there once a
20 long time ago, and I'm trying to remember. It seemed
21 to me there may have been a combination of trails that
22 have been designed for the use and some user-created
23 trails, and then there's a question of off-trail use.

24 So I like what you're saying about the BLM could
25 somehow consider a system outside of the critical area

1 of concern. And to my knowledge, nobody really has sat
2 down and really actually built a trail system from
3 scratch like that, and that would be really something
4 to look forward to. Historically speaking, where do
5 those trails come from?

6 STEVE KORETOFF: With exception to SVRAS in the
7 State of California, you will find that on all public
8 lands in the United States the majority of the routes
9 used by the recreation community, whether it be in the
10 forest or BLM lands, are user-created routes. They
11 were created by mining operations. They were created
12 for transportation.

13 We have a very historical trail that we almost
14 lost in travel management with the Forest Service that
15 was actually the supply route that supplied Yosemite
16 from Mariposa. We had to fight very, very hard for a
17 route that was over 150-years old because of the term
18 "user-created."

19 I get a little bit sensitive when it comes to
20 that particular terminology when, in fact, the majority
21 of the routes in Clear Creek Management Area,
22 especially when you're talking about what we would call
23 two track or a fire road or something along those
24 lines, was actually developed by the mining industry.
25 And when the mining industry went in and put those

1 roads in, they didn't want to spend all of their time
2 maintaining those roads, so they did engineer them in a
3 way that they would be fairly sustainable.

4 I think there's a lot of opportunities there,
5 and the Friends of Clear Creek and other groups have
6 shown their willingness to work in a partnership with
7 BLM and also through grant funding through the Division
8 to go in there and to address water quality issues, and
9 runoff issues, and to do the maintenance.

10 I'm very happy to report that at our last
11 Resource Advisory Council meeting that we had in Clear
12 Creek Management Area, we also had 35 volunteers that
13 day that were both putting in fence, repairing damaged
14 fence into sensitive areas, as well as trash pick-up.
15 And this is something that's been stated by BLM
16 Hollister Field Office staff in the past is that the
17 last two years before the temporary closure was
18 imposed, they saw their best compliance with
19 non-authorized use outside of the trail system, as well
20 as an overwhelming amount of volunteer activity going
21 in and rerouting around sensitive areas, habitat and
22 other issues.

23 And some of these trails that I'm just
24 recommending right now that we try to access have
25 actually gone through NEPA and the EA process, were on

1 the previous Resource Management Plan. So even though
2 whether they're user-created routes or not, they've
3 been approved by BLM that they are a sustainable trail
4 system, so.

5 CHAIR SLAVIK: All right. That kind of answers
6 the questions.

7 Dan, you have contact information for Steve?

8 STEVE KORETOFF: I'll make sure he has it. If I
9 can ever be of service -- my term runs out. This will
10 be my third term as a Resource Advisory Council member.
11 I was considering a fourth, but the administration has
12 decided that two terms is enough, and I've overstayed
13 my welcome.

14 The reason I did the third term was one specific
15 reason above and beyond anything else, is several years
16 ago I was down at the Green Fire Mine, which is almost
17 in the center of Clear Creek Management Area, and I
18 found a piece a very unusual rock formation and took a
19 piece of rock out of there and found that it had green
20 garnets embedded in it. They are not a precious stone,
21 but it looked pretty neat, and I thought what better
22 gift to give to my daughter, give her something that
23 looks like they're emeralds or garnets.

24 So I gave it to her. She was all excited. She
25 cleaned it up with a toothbrush and made it real

1 pretty. And to my surprise, three days later she came
2 home all excited about how her teacher had complimented
3 her on a full report she had done specifically on the
4 various geological formations in Clear Creek Management
5 Area in green garnets. The only other place in the
6 world that those particular garnets are found are in
7 Russia.

8 It's amazing how much work that little girl did.
9 At the time she was only nine-year olds. She took that
10 little piece of rock and did a whole report. Her whole
11 interest wasn't about riding or anything else. It was
12 about this precious stone, to her anyway.

13 And I made a promise to her that some time when
14 she was old enough I would take her on her motorcycle
15 to the Green Fire Mine so she could pull her own green
16 garnets out. And I'm doing everything in my ability to
17 keep my promise to my daughter. Thank you. (Audience
18 applause.)

19 CHAIR SLAVIK: All right. Any closing comments?

20 DEPUTY DIR. CONLIN: I appreciate everybody
21 coming here. This is a short-noticed meeting. I
22 appreciate very much what the Commission is doing.

23 And getting back to what I said earlier, again,
24 you are not simply reflecting the views and opinions of
25 the riders of California, the OHV users. You are

1 reflecting the views and opinions of the State of
2 California. That's what all this means. Those gas
3 taxes, the fact as we just entered a discussion here
4 about a young nine-year-old girl finding a gem up in
5 one of our recreation areas gets to the point of this.

6 We are chartered with providing all citizens of
7 this great state and people who come and visit the
8 opportunity to recreate in our areas. And the only way
9 we're going to keep doing that is by continuing the
10 good fight. Sometimes we're going to be told we can't
11 use an area, maybe it will -- this one we will win or
12 lose. But if we don't push for it, we don't fight, we
13 don't make our views known, we don't carry that forward
14 to the political leaders who make those decisions, then
15 we're going to get rolled over every time.

16 So I appreciate everybody's hard work on this.
17 I appreciate everybody's help. I appreciate also the
18 temper and the tone of this Commission meeting. Very
19 well run, Paul, thank you. And everybody here, good,
20 honest, polite crowd, and you guys did you great job of
21 adhering to the rules that are out there. So thank you
22 all for your participation and help. (Audience
23 applause.)

24 CHAIR SLAVIK: Any Commissioners have any of
25 closing comments?

1 COMMISSIONER VILLEGAS: Are we going to take any
2 action on the legislation, like any kind of support?

3 CHIEF JENKINS: We can agendize that for the
4 next meeting in two weeks.

5 CHAIR SLAVIK: Yes.

6 COMMISSIONER PATROVSKY: Can I make a comment?
7 What I remember having worked for the BLM many years
8 ago is it takes the IBLA sometimes quite a long time to
9 reach its decisions. Am I right? But if it takes a
10 year or two for that decision, we want to be looking
11 for other alternatives in the meantime, if we are going
12 to be waiting a long time.

13 CHAIR SLAVIK: Because it's closed.

14 COMMISSIONER PATROVSKY: Exactly.

15 CHAIR SLAVIK: I would entertain a motion to
16 adjourn the meeting.

17 COMMISSIONER MURPHY: Made.

18 COMMISSIONER CABRAL: Second.

19 CHAIR SLAVIK: All in favor?

20 (Commissioners simultaneously voted.)

21 (Meeting adjourned at 1:16 p.m.)

22 --oOo--

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25